TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1951

No. 95

TALBOT JENNINGS, PETITIONER,

vs.

PEOPLE OF THE STATE OF ILLINOIS

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ILLINOIS

PETITION FOR CERTIORARI FILED APRIL 9, 1951.

CERTIORARI GRANTED JUNE 4, 1951.

SUPREME COURT OF THE UNITED STATES

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IN THE SUPREME CF THE STATE OF ILLINOIS, MARCH TERM, A. D. 1951

THE PEOPLE OF THE STATE OF ILLINOIS, Respondent,

Defendant in Error,

vs.

TALBOT JENNINGS, Petitioner, Plaintiff in Error

Petition for Writ of Error Under Post Conviction Hearing Act, to Criminal Court of Cook County

Honorable Alan E. Ashcraft, Jr., Judge, Presiding

MOTION—Filed February 5, 1951

To: The Honorable the Chief Justice, and the Associate Justices of the Supreme Court of the State of Illinois.

May It Please the Court:

Comes now, Talbot Jennings, plaintiff in error in the above entitled cause and the movant herein, and respectfully moves this Honorable Court for leave to file the trial court record submitted herewith for the consideration of this cause of action brought in the above entitled cause, and for his reason represents the following facts, to-wit:

1. That prior to the adoption of Rule 27B, he had filed a praecipe for record with the Clerk of the Criminal Court of Cook County and submitted the "Original Exhibits" and other records, filed in said Court in support of his post conviction petition, to be compared with the copies on file and certified for presentation to this Honorable Court as will more fully appear in the praecipe incorporated in the trial court record submitted herewith, See: (Rec. 312-313);

2. That because of the numbering of the pages of said record submitted herewith will enable the plaintiff in error in the above entitled cause to prepare and file an Abstract of said record together with his Brief, if his Petition for Writ of Error Under the Post Conviction Hearing Act attached hereto is granted by this Honorable Court.

Wherefore, it is respectfully prayed that this Court will accept the properly certified trial court record submitted herewith, as certified by the Clerk and signed by the Trial Judge of the Criminal Court of Cook County in considering this cause on its merits.

[fols. e-f] Plaintiff in error and the movant herein further moves this Honorable Court that he be granted leave to file to the May Term of this Court eight (8) typewritten copies of the Brief and Abstract in this case, and to serve one (1) copy each of the Brief and Abstract on the State's Attorney and the Attorney General in lieu of the requisite number of copies required by Rule 40 of this Court because by virtue of his poverty, plaintiff in error is unable to comply with the requirements of said Rule as to the printed matter referred to therein.

In support of this motion, the movant herein, attaches hereto and submits herewith his affidavit in forma pauperis and verity of the foregoing motion.

Respectfully submitted, Talbot Jennings, Movant, Pro Se.

Duly sworn to by Talbot Jennings. Jurat omitted in printing.

[fol. g] SUPREME COURT OF THE STATE OF ILLINOIS

APPLICATION FOR WRIT OF ERROR—Filed February 5, 1951

To: The Honorable the Chief Justice, and the Associate Justices of the Supreme Court of the State of Illinois.

May It Please the Court:

Comes now, Talbot Jennings, plaintiff in error in the above entitled cause, by and through himself, in his own proper person and respectfully petitions the Court, for leave to file, commence and prosecute to a conclusion a writ of error to the Criminal Court of Cook County, Illinois, in forma pauperis; pursuant to the provisions of Chapter 33, paragraph 5 et seq. and Chapter 38, paragraph 832, of the Illinois Revised Statutes, 1949, and Rule 27B of this Court, in order that this Honorable Court may be able to review upon the trial court record, the final judgment and order of said Criminal Court rendered on the

1st day of November, 1950. Dismissing plaintiff in error's post conviction petition seeking redress of violations of his constitutional rights occurring during the course of trial, as provided under the provisions in Chapter 38, paragraphs 826-832 inclusive, of the Illinois Revised Statutes, 1949.

Petitioner sets forth that his constitutional rights were violated under Article 11, Sections 2, 6, 9 and 10 of the Illinois Constitution, and under the 4th, 5th, 6th and 14th Amendments of the United States Constitution. And to show that he has a meritorious cause of action, the petitioner herein submits the following facts supported by the trial court record, to-wit:

[fol. 1.]

Statement

I

Petitioner alleges that, he was illegally and unreasonably arrested and evidence obtained through illegal search and seizure was used over his objection by prosecuting officials to obtain his conviction. See: (Rec. 34-38 inclusive); that he was arrested on the sole information given to police by an alleged accomplice held in custody by the police, (Rec. 127); that the police did not have any warrant to arrest, search or seize petitioner or any of his property, (Rec. 87 & 92).

Major question presented for review: *Whether police officers making arrest, search and seizure without warrants, proceed as prudent and cautious men when told by an accomplice that a certain person is implicated in a crime.*

II

Petitioner alleges that, confessions obtained by force, violence and illegal detention were used to obtain his conviction, (Rec. 131-135 inclusive); that he was denied the aid of counsel, (Rec. 95-96); that he was held incommunicado in River Forest Illinois by the police of Oak Park Illinois who held petitioner in custody and exceeded their jurisdiction by having petitioner secretly held in River Forest Illinois, another independent township which the police force therein had no charge against petitioner whatsoever, until they, the Oak Park police, could compel petitioner through violence and deprivation of friends and

counsel to make a joint confession with an alleged accomplice. (Rec. 285-288 inclusive); that the arresting officer denied that petitioner was held in River Forest Illinois, (Rec. 152); that he was not given a prompt hearing before the Justice of the Peace of Oak Park as provided by statute, (Rec. 10 & 11).

Major question presented for review: *Whether the use of a coerced confession as a means of obtaining a verdict of guilty constitutes a denial of "due process of law".*

[fol. i]

III

Petitioner alleges that, he was not given a speedy trial by being tried within "four months" as by statute provided, which delay was not on his part; that he loss a valuable witness because of the long delay in being brought to trial, (Rec. 97); that from August 13th, 1948 to December 23rd, 1948, petitioner did not cause any delay in being brought to trial, (Rec. 34-42 inclusive); that the delays were arbitrary and discretionary action on the part of the trial court, and dilatory methods, without just cause, on the part of the prosecuting officials. See: Proceedings had on July 28th, 1948 (Rec. 224-226 inclusive); Proceedings had on August 13th, 1948, (Rec. 192-197 inclusive); Proceedings had on August 26th, 1948, (Rec. 227-233 inclusive); Proceedings had on October 4th, 1948, (Rec. 198-207 inclusive); Proceedings had on November 4th, 1948, (Rec. 208-211 inclusive); Proceedings had on December 13th, 1948, (Rec. 212-22 inclusive).

Major questions presented for review: *Whether a motion to suppress made in apt time and disposed of at the "convenience" and "discretion" of the trial court can be considered a dilatory motion on the part of the petitioner, since a motion to suppress is a motion to expedite the trial proceedings; Whether any continuances on the trial court's own motion can be construed as delay in being brought to trial on petitioner's part simply because he made a motion to suppress illegal evidence; Whether the loss of a witness because of long delay in being brought to trial is a denial of due process in itself.*

IV

Petitioner alleges that, he was denied due process and equal protection of the law through perjury and fraud

known to and abetted by the prosecuting officials; that the arresting officer, Det. Edward Piotter, denied that any personal property was seized in the apartment at the time of petitioner's arrest, (Rec. 89-92 inclusive); that during [fol. j] the trial the prosecuting officials introduced into evidence a gold ring seized from petitioner at the time of his arrest and the same Det. Edward Piotter recalled all the while that a ring was seized from petitioner in the apartment at the time of his arrest, (Rec. 129-130 inclusive) (Rec. 185-187 inclusive); that the trial court denied petitioner's motion to suppress on the grounds "that no personal property was seized at the time of his arrest, (Rec. 227-231 inclusive); that because of said perjury and fraud, petitioner was denied full and fair adjudication of his motion to suppress and equal protection of the law, by reason that the co-defendant Morgan received a full adjudication of his motion to suppress by an opinion rendered by the trial court, (Rec. 199-204 inclusive).

Petitioner further alleges that, the same Det. Piotter gave false and misleading testimony under cross-examination to the great prejudice of petitioner by arousing prejudice in the minds of the Jurors in his anxiety to aid in the conviction of the petitioner, by reason that he testified that petitioner stated at the time of his arrest that he intended to jump out of the bathroom window if he could have gotten dressed in time, (Rec. 180-181); that under direct-examination Det. Piotter testified that the petitioner gave no explanation for being in the bathroom at the time of his arrest, (Rec. 130).

Major questions presented for review: *Whether during the hearing of a motion to suppress illegal evidence the prosecution has a right to suppress knowledge of any evidence seized by not bringing forth said evidence for a full and fair adjudication of said evidence material to the issue in question; Whether using said evidence during the trial is sufficient to deny due process of law when said evidence is tainted with "perjury", "fraud" and "connivance" on the parts of police officers and prosecuting officials.*

V

Petitioner alleges that, he was denied due process of law [fols. k-n] by prejudicial misconduct of the State's Attorney by calling petitioner's witness a perjurer in his closing

argument before the jury without evidence to sustain his prejudicial remark, (Rec. 19-20); that he was not convicted beyond a reasonable doubt and is innocent of the charge he was convicted on; that he was living in Detroit, Michigan on May 24th, 1948, the date of the alleged robbery that he was unjustly convicted of, (Rec. 98, also See Rec. 234-280 inclusive); that the prosecuting witness identified other suspects and therefore could not be positive of petitioner being one of the men whom robbed him, (Rec. 304-305 inclusive); that he was "framed" and definitely did not participate in any robbery in Oak Park, Illinois on May 24th, 1948, (Rec. 99).

Major question presented for review: *Whether obtaining conviction by prejudice and inflam-atory remarks is a denial of due process and fair play.*

VI

The final judgment and order of the trial court on petitioner's post conviction petition was entered on the 1st day of November, 1950, sustaining the People's Motion to Dismiss and dismissing petitioner's petition without granting a full hearing on the merits.

The major question for review: Whether a "General Motion to Dismiss" admits the facts well pleaded to be true on all facts which present a substantial violation of petitioner's constitutional rights. (Rec. 309-310 inclusive.)

Conclusion.

Since the Totality of Facts presented herein present a substantial violation of petitioner's constitutional rights it is respectfully prayed that petitioner's application for Writ of Error Under the Post Conviction Hearing Act be granted.

Respectfully submitted, Talbot Jennings, Petitioner, Pro Se.

[fol. 1] IN THE CRIMINAL COURT OF COOK COUNTY, — TERM, 1950.

P. C. No. 61

TALBOT JENNINGS, Petitioner,

vs.

THE PEOPLE OF THE STATE OF ILLINOIS, Respondent

CONTENTS

AMENDED PETITION FOR REDRESS OF ALLEGED INFRACTIONS OF CONSTITUTIONAL RIGHTS, OCCURRING DURING THE COURSE OF TRIAL, BROUGHT IN FORMA PAUPERIS. UNDER CHAP. 38. PARS. 826-832 ILL. REV. STAT. 1949. FIVE PHOTOSTATIC COPIES OF AFFIDAVITS OF WITNESSES. COMMON-LAW-RECORD IN CASE NO. 48-1247. PORTIONS OF THE TRANSCRIPT OF PROCEEDINGS HAD IN CASE NO. 48-1247.

To: Vincent J. Poklacki, Clerk of the Criminal Court of Cook County, 2600 S. California Ave., Chicago 8, Illinois.

Calvin P. Sawyer, Attorney for petitioner appointed by the Chicago Bar Association, First National Bank Bldg., Financial 6-3600.

Talbot Jennings, #28051, Petitioner, Pro Se. Address: Box 1112, Joliet, Illinois.

[fol. 2] IN THE CRIMINAL COURT OF COOK COUNTY

[Title omitted]

PETITION—Filed February 5, 1951

To the Honorable Judges of the Criminal Court of Cook County:

May It Please The Court:

Now comes Talbot Jennings, the petitioner in the above entitled cause and leave of Court having been first had and obtained, files this his amended petition in compliance with the provisions of an act of the 66th General Assembly, more commonly known as the Barry Bill, Senate Bill 630,

as set forth in Chapter 38, paragraphs 826-832 of the 1949 edition of the Illinois Revised Statutes, and respectfully petitions this Honorable Court for redress of alleged infractions of rights guaranteed him by the Fourteenth Amendment to the Federal Constitution, and the Constitution of the State of Illinois, and his petition now here represents:

1. That your petitioner is a poor person, and has not the property or other means with which to pay the costs of these proceedings.

2. That because of his poverty, petitioner has no means with which to procure the complete records had in Cause No. 48-1247, necessary to materially aid in proving all of the allegations made in his petition. Said records are on file in the Criminal Court of Cook County and in the Office of the Official Court Reporters.

[fol. 3] 3. In support of petitioner's allegations made in the following Statement of Facts, he attaches hereto and makes a part of this petition:

(a) Five photostatic copies of affidavits of witnesses.

(b) A true certified copy of the Common Law Record in Cause No. 48-1247.

(c) And other certified evidence taken from the transcript of Proceedings had in Cause No. 48-1247, People of the State of Illinois vs. Talbot Jennings.

4. And your petitioner further shows, that he has not heretofore sought relief by any other remedies.

5. And your petitioner, complaining further shows, that he is now imprisoned in the Illinois State Penitentiary, pursuant to a final judgment of the Criminal Court of Cook County, rendered on the 28th day of January, 1949, in cause General Number 48-1247, wherein your petitioner was convicted of the crime of Armed Robbery, and sentenced thereon from ten (10) to twenty-five (25) years which said judgment was rendered after the following proceedings:

Statement of Facts

I

Petitioner's Constitutional Rights were violated under Art. 2, Sec. 6, of the Illinois State Constitution and under the Fourth Amendment of the United States Constitution.

in that he was Illegally and Unreasonably arrested and evidence obtained through Illegal Search and Seizure was used by prosecuting officials to secure his conviction.

1. On the morning of June 6, 1948, on or about 3:30 A.M. the petitioner was at the home of Mrs. Rosanna Watson and his fiancee, Miss Evelyn Jackson, located at 5303 South Dearborn Street, Chicago, Illinois, when five police officers (two of the Chicago Police Department and three of the Oak Park Police Department, Oak Park, Illinois) forced their way into the aforesaid premises and home and arrested the petitioner. After these officers of the law [fol. 4] had gained entrance into this home, they then identified themselves, and asked the petitioner who he was. The petitioner promptly told them his name, Talbert Jennings. The officers then told him he was under arrest. They then searched the house, and when they were requested to show a search warrant for this procedure and a warrant for petitioner's arrest, one of the officers replied that they didn't need one.

2. One of the officers, a detective named Edward Piotter, searched the person of the petitioner and seized therefrom a gentleman's diamond ring, and wrist watch. Det. Piotter after inspecting the jewelry gave the wrist watch to one of the other officers to inspect and put the diamond ring into his own pocket. The officer that Det. Piotter gave petitioner's watch to was lafer identified as Lt. Nester of the Oak Park Police, Oak Park, Illinois.

3. When the officers were preparing to take the petitioner from the house he asked Mrs. Watson to notify his relatives, and have them notify an attorney for him. One of the officers overheard his request and struck petitioner in the face. The officer then told Mrs. Watson she was not to notify any attorney, nor petitioner's relatives because it would do no good.

4. With the Honorable Court's permission petitioner would like to call to the Court's attention, that there was no formal complaint to search, seize or arrest petitioner or issuance of any warrant therewith, as shown by the record and testimony of the arresting police officers. Attached hereto and made a part of this petition is the testimony of Det. Piotter to verify the petitioner's allegation that there was no warrant whatsoever. See *Exhibit "B"*. Pages *26 to 30*. And when Mrs. Watson requested the officers to produce a warrant before entering the home and premises

she was knocked out of the door by one of the officers, and their entrance was made in this manner. The petitioner would like to also call to this Honorable Court's [fol. 5] attention, that attached hereto and made a part of this petition are two sworn affidavits to support the contention herein pointed out, that petitioner was abused during his arrest, *See Exhibits Marked—"C" and "D".*

5. Petitioner at this time would like to call to the Honorable Court's attention that on August 13, 1948 before Hon. Alan E. Ashcraft, in the Criminal Court of Cook County, the said Judge granted a Hearing on a Motion filed by petitioner's Counsel to Suppress Illegally Obtained Evidence, (the same being the Ring seized from the Defendant Jennings at the time he was arrested preceding any formal complaint or warrant for search, seizure or arrest being sworn to and placed against him). *See Exhibit "A" Pages 12 to 13.* At this Hearing Det. Piotter, who seized the Ring from the person of the Defendant at the time he arrested him, testified that—*No Personal Property Was Taken in the Apartment when the Defendant Jennings Was Arrested. Nor Had He Seen Any Personal Property That Was Taken. See Exhibit "B". Pages 27 to 28.*

6. Petitioner further submits to the Honorable Court's Attention, that during the trial in which petitioner was convicted, a gentleman's diamond ring was introduced into evidence against him; that this same ring was the one seized from him at the time of his arrest by Det. Piotter; that the ring was introduced into evidence as part of the loot taken in the Barr Jewelry Robbery; that the use of petitioner's own ring as evidence against him was highly prejudicial as submitted to the Jury as loot taken in the Bar Jewelry Robbery to obtain a Verdict of Guilty; that this particular type of ring was not positively identified by Mr. Barr, so as to make it incompetent evidence; that when Det. Piotter was asked to testify about the ring during the trial, he testified that—*He Recalled All the While That a Ring Was Taken in the Apartment From the Defendant Jennings When He Was Arrested:* that because [fol. 6] the Court permitted the use of the said Ring as Evidence, being aware of the conflicting and false testimony of Det. Piotter, deprived your petitioner of a fair and impartial trial. *See Exhibit "H" Pages 30 to 31 and page 86.*

II

Petitioner's Constitutional Rights were violated under Art. 2. Sec. 10 of the Illinois State Constitution, and under the Fifth Amendment of the United States Constitution, in that he was compelled to give evidence against himself by making confessions under duress.

7. After petition was taken from the aforesaid residence at 5303 Dearborn Street, Chicago, Illinois, he was placed in a police car and after brief stops at Wabash Avenue Station and The Detective Bureau at 11th & State Street, Chicago, Illinois, petitioner was then taken to the Oak Park Police Station, Oak Park, Illinois. Enroute to the Oak Park Police Station petitioner was questioned about a jewelry store robbery that happened in Oak Park, Illinois on May 24, 1948. Petitioner was struck in the face by one of the officers, identified as Det. Piotter, when he denied knowledge of any robbery. Upon arrival at the aforesaid station near or about 5:30 A.M. of June 6, 1948, the petitioner was informed as to what specific charge he was arrested for, which was a Jewelry Store Robbery that had taken place on May 24, 1948, known as the Barr Jewelry Store located at 1031 West Lake Street, Oak Park, Illinois.

8. When your petitioner further denied any knowledge of this crime, and attempted to produce evidence that would prove beyond a reasonable doubt that he was not in Oak Park, Illinois on May 24, 1948, nor in the City of Chicago, Illinois, but was in the City of Detroit, Michigan, one of the officers conducting this interrogation struck the petitioner in the face a number of times, saying: that he would make the petitioner confess to the said robbery or kill him. The petitioner was then taken into a room for further [fol. 7] questioning, wherein he was brutally assaulted each time he professed his innocence, and was subjected to unrelenting inquisition.

9. Lt. Nester, one of the arresting officers, read to your petitioner a statement allegedly made by an Edgar Morgan, an old acquaintance of petitioner's, whom the police had earlier arrested in connection with the aforesaid robbery. This statement that was read by Lt. Nester implicated the petitioner in the Barr Jewelry Store Robbery. Petitioner told Lt. Nester that he had not seen said Edgar Morgan since March, of 1948, and that he did not participate in any robbery whatsoever in Oak Park, Illinois. The

officer then told your petitioner that when they, the Oak Park Police Officers, finished with him he would be glad to sign Morgan's Statement. Your petitioner persisted in proclaiming his innocence and was assaulted and questioned continuously for several hours in "Third Degree" fashion.

10. During the aforesaid questioning and brutality, all the other officers present, with the exception of Lt. Nester, suddenly stopped abusing and questioning your petitioner and left the office in which he was in. Shortly thereafter a man entered the office. This said man was later identified to petitioner as Mr. Sidney Barr, the owner of the jewelry store that was allegedly robbed. Lt. Nester then asked this man, Mr. Barr, if he could identify the petitioner. Mr. Barr replied that he could not, and that he had never seen the petitioner before. Lt. Nester then told Mr. Barr, that petitioner was one of the men who had robbed him, and that he, the petitioner, had confessed to the crime. Mr. Barr still insisted that he could not identify the petitioner, as he did not get a good look at the men who had robbed him, mentioning that the men who robbed him wore dark glasses. Lt. Nester then told Mr. Barr that he had better look at the petitioner good, because he, Mr. Barr, [fol. 8] would have to give positive identification when petitioner was taken to court. At Lt. Nester's insistence, Mr. Barr then said the petitioner looked like the man from the back (rear view) who was in his store at the time another man, described as Edgar Morgan by Mr. Barr, put a gun in his stomach and forced him into the rear of his store; but that he did not see petitioner's face during the course of the robbery and only received a brief glimpse of the petitioner from a rear view. At this time petitioner respectfully calls to the Honorable Court's attention; that this same Mr. Barr, as can be shown by the record, identified other suspects besides Jennings, your petitioner, and Edgar Morgan—*See Supplementary Exhibit #3, Page 15*—that Mr. Barr is incapable of identifying positively the men who allegedly robbed him in his jewelry store, as can be shown by his testimony; that at the time Mr. Barr identified petitioner in Lt. Nester's office he had not signed any statements; that the form of identification employed by Lt. Nester was contrary to police procedure in establishing positive identification, wherein a prisoner is picked out of a line of other prisoners; that the so-called identifi-

cation was made in the privacy of Lt. Nester's office with Mr. Barr and the petitioner being the only other persons present with the exception of Lt. Nester; that Lt. Nester wilfully and with malice told Mr. Barr that your petitioner had confessed to robbing him and that he, Mr. Barr, would have to identify petitioner as one of the men whom had committed the robbery of the Barr Jewelry Store.

11. After Mr. Barr had left the office of Lt. Nester, petitioner was confronted with Edgar Morgan, who identified the petitioner as the man, he, Edgar Morgan, had implicated in the statement he had made to the Oak Park Police. The aforesaid Edgar Morgan was then quickly taken away before the petitioner could question or deny the charges Edgar Morgan had made against him, or learn from Morgan the reason why he had implicated your peti-
[fol. 9] tioner in a crime of which he knew nothing about. Petitioner respectfully submits to this Honorable Court that this same Edgar Morgan testified in Court at the trial for the aforesaid crime, that the statement he made implicating the petitioner was made under extreme duress.

12. After Edgar Morgan was led from the Office of Lt. Nester, petitioner was again subjected to brutality and questioned continuously until he could no longer stand the abuse and coercion inflicted upon him by these police officers. Thus, petitioner agreed to sign anything the officers wanted him to sign to evade further mistreatment. Your petitioner then signed the statement that the said Edgar Morgan had made to the Oak Park Police implicating him.

13. Lt Nester told the other officers present that Mrs. Watson or Miss Jackson, in whose home petitioner was arrested, might send a lawyer to petitioner's aid, or have his relatives do so, and gave orders that the petitioner be taken to The River Forest Police Station, River Forest, Illinois, (another township that had no jurisdiction over the petitioner or complaint against him whatsoever) to be held there incommunicado until they, the Oak Park Police, were through with their "secret interrogation" of the petitioner. The petitioner was held in the above named police station in River Forest Illinois for two (2) days; throughout this time he was brought back and forth to the Oak Park station for further questioning and maltreatment.

14. With the Honorable Court's permission, petitioner

would like to submit to the Court's attention that as a result of these "secret interrogations" and physical brutality to his person he was in a very dazed condition and was suffering with pains in his back, stomach and a swollen and bruised face from the battering assaults inflicted by the officers of the Oak Park Police Force to extort a confession; that petitioner was not given food or medical attention, nor allowed to see friends or counsel while he was secretly held in the River Forest Police Station, River [fol. 10] Forest Illinois, where he was referred to by the River Forest Police as "the hideout prisoner"; that he did not receive any food or water at the Oak Park Police Station until after he had signed a second joint statement with Edgar Morgan; that the record shows that this second joint statement was made in the Oak Park Police Station on the night of June 6, 1948; that petitioner was brought from the River Forest Police Station back to the Oak Park Station to make this second joint statement under duress and then returned to the River Forest Police Station, River Forest Illinois for further *secret detention.*

15. On or about June 8, 1948, petitioner was brought back to the Oak Park Station from the River Forest Police Station and informed that some one had retained an attorney to act in his behalf, and that the attorney had instituted habeas corpus proceedings to have him located and released, or a charge placed against him. Forthwith a charge of armed robbery was placed against the petitioner and he was then locked up and held in Oak Park's lock-up.

16. On or about June 9, 1948, the petitioner was allowed to see Miss Evelyn Jackson and Mrs. Rosanna Watson. The Honorable Court will note that petitioner has hereto attached and made a part of this petition two (2) sworn affidavits—*Exhibits "C" and "D"*—from the above named persons in support of said allegation that officers of the Oak Park Police Station employed harsh and brutal treatment to secure petitioner's signature on statements to his purported participation as charged in Indictment Gen. No. 48-1247.

17. *Not until several days after petitioner was arrested was he taken before a justice of the peace for a hearing,* contrary to the Statutes of Illinois which call for a prompt Hearing before a magistrate. Petitioner was given a

Hearing before Justice of the Peace, Herbert Steed, in Oak Park, and was committed to the Cook County Jail until June 22, 1948. Petitioner was taken from Oak Park Illinois to the Cook County Jail, and on June 22, 1948, [fol. 11] petitioner was returned to Oak Park before Justice of the Peace, Herbert Steed again. At this said Hearing petitioner was held to the action of the Grand Jury and recommitted to the Cook County Jail on the same date. At this time petitioner respectfully submits that,—since he was arrested on Sunday June 6, 1948, he should have been taken before the said Justice of the Peace for a Hearing on Monday June 7th, 1948, which was the same date that Lt. Nester went before the aforesaid Justice of the Peace and swore out a complaint against your petitioner, as can be shown by the "Continuance Mittimus" and other records on file in the office of the Sheriff of Cook County.

18. Petitioner respectfully submits further that during the trial in which he was convicted Counsel for the defense made a motion to suppress the Statements signed by your petitioner because said statements had been obtained by methods known as the "Third Degree" by officers of the Oak Park Police. A Hearing was granted. Your petitioner testified to the brutal and inhuman treatment to which he was subjected by the aforesaid police officers and how he was secretly held in River Forest, Illinois and "shuttled over the loop", known to police parlance, "to prevent the prisoner from seeing friends, or Counsel during these several days of *secret interrogation.* Petitioner also produced witnesses who were allowed to visit him, viz., Miss Jackson and Mrs. Watson. The arresting officers "naturally denied" all of petitioner's allegations of brutality, and testified that, *They Had No Knowledge of Petitioner Being Taken to the River Forest Police Station and Held Incommunicado,* as can be shown by the record of their testimony. Officer Ayers, of the Oak Park Police Force, a witness for the State, so to speak—let the cat out of the bag—and admitted that the petitioner was taken to the River Forest Police Station and held there on orders re- [fol. 12] ceived from detectives of the Oak Park Police Station and *That Petitioner Was Brought Back and Forth from River Forest to Oak Park.* See Supplementary Exhibit #2 (part two) Pages 6, 7 & 8.

19. The Motion to quash the statements made by petitioner and signed by him were overruled and allowed to be entered

as evidence against him notwithstanding they had been made under extreme duress.

III

Petitioner's Constitutional Rights were violated under Art. 2. Sec. 9, of the Illinois State Constitution and under the Sixth Amendment of the United States Constitution, in that he was not given a Fair and Speedy Trial.

20. Petitioner respectfully submits the following as his allegations that he did not receive a Fair and Impartial Trial under the 6th Amendment, which also is a denial of the 14th Amendment of the United States Constitution, which is Due Process of Law.

1. The verdict was not sustained by evidence of the defendant's guilt beyond a reasonable doubt.

2. The evidence introduced by the People was insufficient to support the verdict of the jury.

3. The State's Attorney during the trial and argument of the case was guilty of prejudicial misconduct and abuse of the privilege of argument as shown by the record.

4. The defendant was convicted on testimony known to be false by the State's Attorney and Court.

5. The police were guilty of using perjury known to the prosecution to aid in the conviction of the defendant.

6. The Court allowed arbitrary and oppressive delays to prevent the defendant from receiving a Speedy Trial which he Demanded, as clearly shown by the records.

7. The Court was without jurisdiction to hear the charge against the defendant since he was not tried within four months, which delay was not caused through any fault on his part.

[fol. 13] 21. At this time your petitioner respectfully points out for the Honorable Court's consideration, that he was not given a Speedy Trial, as guaranteed by the Constitution of Illinois and the United States, and for his reasons therefore submits the following allegations and facts in support thereof with his proof; that Counsel for the Defendant Jennings on December 13, 1948 invoked the statute enacted by the Illinois Legislature to give effect to the

Constitutional guarantee of a Speedy Trial; that the Defendant Jennings had not caused any delay within a "four month period" and had been awaiting trial over Four Months; *that the Defendant Jennings through his Counsel had Demanded Trial on November 4th, 1948;* that the Defendant Jennings' Motion to Discharge For Want of Prosecution was denied on December 13, 1948 by Hon. Alan E. Ashcraft, Jr., *on the mere technicality argued by the State's Attorney that he, Defendant Jennings, the same being your petitioner, had had a "Hearing to Suppress Evidence" on August 13, 1948; that* said motion to suppress evidence was a pretrial or preliminary motion to be heard and ruled on AT THE COURT'S CONVENIENCE AND DISCRETION any time before trial actually commences; that the Common-Law Record attached hereto Marked Exhibit "A" shows from August 13, 1948 to December 23, 1948, that no delay whatsoever was caused by the Defendant Jennings, your petitioner; that the delays in the case being brought to trial were caused by the Court and State's Attorney; that the delays and continuances at the Court's discretion and State's motions were arbitrary and oppressive; that the Defendant Jennings suffered harassment and anxiety attending the criminal prosecution in which he was convicted and loss a valuable witness as a result from the long delay in being brought to trial. *See Exhibit "E."*

22. Petitioner was arraigned before Hon. Chief Justice Cornelius J. Harrington on July 6, 1948 and it was ordered [fol. 14] by the Court that the cause be and the same was assigned to the Hon. Alan E. Ashcraft, Jr. On the same date, July 6, 1948, petitioner was taken to the bullpen or safety cage for prisoners adjacent to the court room of the Hon. Alan E. Ashcraft, Jr., and there the petitioner remained while his Counsel allegedly went before Judge Ashcraft and the case was set for trial on July 28, 1948. Petitioner was informed of his trial date set for July 28, 1948, by Judge Ashcraft's Bailiff and at no time on July 6, 1948, did the Defendant Jennings appear in the Court Room of the Hon. Alan E. Ashcraft in his own proper person, *which was a denial of his constitutional right to be present at all of the proceedings of his trial from his arraignment to his final sentence or discharge.* Petitioner also submits that there is no transcript of proceedings recorded by the Court Reporter who was on duty on July 6, 1948, in the Court Room

of the Hon. Alan E. Ashcraft, Jr., to show that petitioner appeared in Open Court on that date before the aforesaid Judge.

23. On July 28, 1948, the Common-Law Record, *Exhibit "A"—Page 10* shows that the cause was continued on express consent and agreement between the State's Attorney and the said Defendant and his Counsel to August 13, 1948. On this same date Judge Ashcraft was hearing a jury trial and could not hear the Defendant Jennings' trial. See *Supplementary Exhibit #1 (part three) Pages 1 to 3.*

24. On August 13, 1948, Hon. Judge Ashcraft was hearing another trial but granted Counsel for the Defendant Jennings a Hearing to Suppress Evidence during a recess period of the trial he was hearing on the same day. The Motion to Suppress on discretion of the Court was continued until August 26, 1948, as shown by the Common-Law Record. See *Exhibit "A" Pages 11 to 14;* Also see *Supplementary Exhibit #1—Pages 1 to 5.*

25. On August 26, 1948, the cause for trial was on discretion of the Court continued until October 4, 1948, as shown by the record. See *Exhibit "A" Page 15;* Also see *Supplementary Exhibit #1 (part three) Pages 4 to 9.*

[fol. 15] 26. On October 4, 1948, petitioner was again ready to stand trial, his witnesses present. But not any of the State's subpoenaed witnesses appeared in Court on this date. Counsel for said Defendant objected to this contemptuous and oppressive delay. On motion of the State's Attorney the trial was continued by the Court to November 4, 1948. See *Exhibit "A" Page 16;* Also see *Supplementary Exhibit #1 (part two) Pages 1 to 9.*

27. On November 4, 1948, petitioner was again ready to stand trial, his witnesses present. The State's Attorney orally moved the Court to continue the cause in order to subpoena some so-called witnesses from Cleveland, Ohio. Counsel on behalf of said Defendant objected and "Demanded Trial" at the present date and term of court. Counsel also requested the Court to order the State's Attorney to file an affidavit as to who these witnesses were and what they intended to testify to, as provided by law. The Court ignored Counsel's request and ordered the cause continued on the State's Attorney's oral motion to December 13, 1948. See *Exhibit "A" Page 17;* Also see *Supplementary Exhibit #1 (part two) Pages 11 to 13.*

28. Petitioner at this time would like to submit to this Honorable Court that No Witnesses on behalf of the State prosecution were subpoenaed from Cleveland, Ohio, *nor is there any record of any State Witnesses being subpoenaed from Cleveland, Ohio.* Petitioner further submits that this delay was oppressive and a stall for time to try and manufacture evidence on behalf of the State's Prosecution to aid in the conviction of your petitioner.

On December 13, 1948, Counsel for said Defendant Jennings moved the Court to Discharge the Defendant in accordance with the law, pointing out that he had been awaiting trial over Four Months and during that time had not caused any delay on his part, as clearly shown by the records. See *Exhibit "A" Page 18;* Also see *Supplementary Exhibit #1 (part two) Pages 15 to 23.* The Court denied Counsel's motion to Discharge For Want Of Prosecution on the aforesaid argument of the State's Attorney [fol. 16] that the Defendant had had a Hearing to Suppress Evidence on August 13, 1948. The Court before overruling the Motion to Discharge mentioned that—No Court would uphold such a technicality as holding a person in jail indefinitely on a motion to suppress. The State's Attorney Again asked that the trial be continued so that the prosecuting witness, Mr. Barr, could go to Cleveland, Ohio, to appear at another trial which had not been pending as long as petitioner's trial in the Cook County Criminal Court, Illinois. The Court on Motion of the State's Attorney Again continued the cause to December 23, 1948, over the objections of Counsel for the Defendant. Petitioner respectfully submits to the Court's attention that—"the Court did not appear certain before denying the Motion to Discharge, as the Honorable Court seemingly accepted the decision of the prosecuting attorney. See *Supplementary Exhibit #1 (part two) at page 23.*

29. *Petitioner Respectfully Submits the Following Summary of the Facts in Conjunction With the Foregoing Paragraphs:*

1. The State at no time from July 6, 1948 (the date of arraignment) to December 23, 1948 (the date the trial began) was ready to proceed with the trial.

2. That all of the continuances requested by the State's Attorney were oppressive and a Stall for time to try to manufacture evidence from an anticipated

"unfavorable outcome" of a trial pending in Cleveland, Ohio, which the State's Attorney had hopes of connecting with the Defendant, or his co-defendant Edgar Morgan.

3. That the trial in Cleveland, Ohio did not terminate when Mr. Barr made his alleged trip to Cleveland, Ohio. Moreover, it did not commence until several weeks after your petitioner had been convicted.

4. That because of the aforementioned arbitrary and oppressive delays, your petitioner loss a valuable witness. See *Exhibit "E"*.

5. That petitioner had not been admitted to bail, had been in confinement constantly in the County Jail of Cook County for over "Six Months" and had not caused any delay within a Four Month Period, dating from August 13, 1948 to December 13, 1948, as clearly shown by the Common-Law Record, and the Transcript of Proceedings made a part of this petition as Certified Exhibits. It was the duty of the trial court to proceed with the trial of the defendant Jennings on December 13, 1948, or discharge him from custody.

[fol. 17] 6. That petitioner Demanded a Speedy Trial and Objected to the Arbitrary and Oppressive delays caused by the Court and State's Attorney, as clearly shown by the records.

7. That because your petitioner was not tried within four months the Court was without jurisdiction under the statute to accept any plea or enter any judgment against him.

IV

Petitioner's Constitutional Rights were violated under Art. 2, Sec. 2, of the Illinois State Constitution and under the Fourteenth Amendment of the United States Constitution, in that he was Deprived of His Liberty and Property Without Due Process of Law and Denied the Equal Protection of the Laws.

30. It can be shown beyond a reasonable doubt in the transcript of Proceedings, submitted on the Witness Stand by witnesses for your petitioner at his trial, and by other evidence, that the Defendant Jennings was a tenant of Mr. Jimmy Hughes in Detroit, Michigan from May 22, 1948 to June 1, 1948, and the activity of the Defendant while in Detroit, Michigan shows that it would have been

physically impossible for the Defendant Jennings to have been in Chicago, or in Oak Park, Illinois at the time of the Barr Jewelry Robbery as alleged, and that the Defendant Jennings was definitely *Not Convicted Beyond a Reasonable Doubt;* that the only material evidence used to convict your petitioner was that of the illegally seized ring, the same being his own personal property, and his statement secured by the Police of Oak Park during coercion and the Third Degree to which they resorted; that evidence used against the co-defendant Morgan was highly prejudicial to the Defendant Jennings, because the State's Attorney, by misconduct resorted to every questionable method to connect said evidence with the Defendant Jennings; that Mr. Jimmy Hughes came from Detroit, Michigan and testified in behalf of your petitioner; that he testified that your petitioner was a Roomer at his residence from May 22nd to [fol. 18] June 1st, 1948, and specifically testified that your petitioner was with him in Detroit, Michigan about the time of the alleged Barr Jewelry Robbery on May 24, 1948; that Mr. Hughes identified two (2) rent receipts that he filled out and signed when the Defendant Jennings paid his rent while Mr. Hughes' Roomer in Detroit, Michigan; that the two (2) rent receipts were offered and received into evidence; that Mr. Hughes identified a Telegram Money Order he had received at his home in Detroit, Michigan in care of him for the Defendant Jennings on June 1, 1948; that the telegram money order was offered and received into evidence; that on cross examination by the State's Attorney, no discrepancies were found in the examination by the State's Attorney in the testimony of Mr. Hughes. See *Supplementary Exhibit #2, Pages 1 to 47 respectively.*

31. Miss Evelyn Jackson testified that she knew it to be a fact, that the Defendant Jennings was in Detroit, Michigan from May 22, to June 1, 1948; that she testified at your petitioner's trial that she accompanied the Defendant Jennings to the La Salle Street Station, Chicago, Illinois when he entrained for Detroit, Michigan on May 22, 1948; that she sent the telegram money order to the Defendant Jennings on June 1, 1948, and a receipt which she received upon payment of the money for the telegram money order here in Chicago, was introduced and received into evidence in behalf of the Defendant Jennings.

32. Petitioner loss a valuable witness who would have

testified in his behalf that he was in Detroit, Michigan on May 24, 1948. Petitioner loss this witness because of the long, arbitrary and oppressive delays on the part of the Court and State's Attorney, as heretofore pointed out and verified by *Exhibit "E"*. This aforesaid witness is now ready to testify in behalf of your petitioner when this cause is brought before the Bar of this Honorable Court.

[fol. 19] 33. Petitioner has another witness in Mrs. Nettie Smith willing to testify to the innocence of your petitioner. See *Exhibit "F"*. May the Honorable Court accept the two above said affidavits as prima facie evidence in support of petitioner's allegations.

34. Your petitioner attaches to and makes a part of this petition a sworn affidavit of the Taxi Driver, who drove the two men who allegedly committed the robbery of the Barr Jewelry Store from Chicago, Illinois to Oak Park, Illinois on May 24, 1948. The Taxi Driver further says upon oath that petitioner Jennings is not one of these two men aforesaid. Your petitioner respectfully submits *Exhibit "G"*, as additional prima facie evidence of his innocence. See *Exhibit "G"*.

35. Petitioner respectfully submits to This Honorable Court that:

(1) The State's Attorney during the trial and argument of the case was guilty of prejudicial misconduct and abuse of the privilege of argument to the prejudice of the defendant Jennings as can be shown by the records in Cause 48-1247.

(2) The petitioner was denied due process of law and was convicted with the use of False Testimony willfully, corruptly and falsely given to mislead the Court by a witness for the State Det. Edward Piotter. And the State through her responsible officials knowingly used the false testimony and aided in the perpetration of a fraud upon the Court to the great prejudice of the defendant, in that it deprived him of due process of law and the equal protection of the law.

(3) The police were guilty of using perjury known to the prosecution and Court to aid in the conviction of the Defendant Jennings, as can be shown by the transcript of Proceedings had in Cause 48-1247.

During the trial the State's Attorney in reading the statements to the Jury made by the Defendant Jennings under duress, told the Jury, that during their absence from the Court Room Judge Ashcraft had conducted a hearing to determine if these statements were admissible as evidence *and Had Ruled That They Were All Right.* Petitioner respectfully points out that this remark by the State's Attorney was so grossly prejudicial that it deprived him of Due Process of Law, and a Fair Trial. As a result of the aforesaid prejudicial remark made by the State's Attorney, [fol. 20] Counsel for the Defendant Demanded a Mistrial. Said Motion was overruled.

36. Before the Jury in closing arguments the State's Attorney made several highly prejudicial and inflammatory remarks to influence the Jury's verdict. The State's Attorney called the Defendant's witness, Mr. Hughes, a *perjurer* with not the slightest thread of evidence to substantiate his prejudicial remark. On cross examination the State's Attorney could not find any falsification or discrepansies in Mr. Hughes' testimony what-so-ever, as can be shown by the record of Mr. Hughes' testimony. See *Supplementary Exhibit #2, Pages 1 to 47 respectively.*

37. Detective Piotter used perjury to have the Defendant Jennings' Motion to Suppress Denied by testifying that *No Personal Property Was Taken in the Apartment When He Was Arrested,* as heretofore pointed out *Exhibit "B"—Pages 27 to 28.* When the aforesaid Ring was introduced against the Defendant Jennings, (by the State's Attorney who was aware of Det. Piotter's previous testimony during the motion to suppress) this same Det. Piotter testified, that *He Recalled All the While That a Ring Was Taken in the Apartment from the Defendant When He Was Arrested,* and this same Det. Piotter went so far as to pick out the said ring from a group of other jewelry, as can be shown by the record. See *Exhibit "H"—Pages 30 to 31 and page 86.* Petitioner further submits to the Honorable Court's attention, that by having his Motion to Suppress denied on False Testimony deprived him of Due Process of Law and Equal Protection of the Law, as the trial Court rendered an opinion on a similar motion filed on behalf of the Co-defendant Morgan. See *Supplementary Exhibit #1 (part two) Pages 1 to 7.* Petitioner did not even receive the benefit of any opinion by the trial court as a result of the aforesaid perjury

by Det. Piotter. See *Supplementary Exhibit #1 (part three), Page 6:*

"The Court: As far as Jennings is concerned, there doesn't seem to be anything to suppress."

[fol. 21] For further False Statements and perjury willfully and corruptly given to mislead the Court and Jury to the great prejudice of the Defendant Jennings, your petitioner respectfully ask- that this Honorable Court take notice of the following discrepancies and "false statements" given by Det. Piotter on the Witness Stand:

On *Page 81 and 82 of Exhibit "H"*. Det. Piotter said that petitioner commented while in the bath room that he was going to jump out of the window if he could have gotten dressed in time.

On *Page 31 of Exhibit "H"*, Det. Piotter under direct examination, testified that — petitioner gave no explanation for being in the bath room.

On *Page 27 of Exhibit "B"*. Det. Piotter testified that he told Mrs. Watson that they were looking for a fellow by the name of Jennings.

On *Page 79 of Exhibit "H"*. Det. Piotter testified that he only knew the petitioner by the name of Blackie.

On *Page 82 of Exhibit "H"*. Det. Piotter testified that he told petitioner "Police officers!", etc., before he opened the bathroom door.

On *Page 27 of Exhibit "B"*. Det. Piotter testified that he and the other officers noticed the bathroom door closed and opened it.

38. The petitioner was further Deprived of his own private property, viz., The Ring, taken illegally by the police and his liberty, also being his property, without Due Process of Law for the reasons stated herein this petition. The petitioner was Denied the Equal Protection of the Law for the reasons stated herein pertaining thereto in this petition.

Wherefore, your petitioner respectfully prays, to be brought before the Bar of this Honorable Court in his own proper person for a full and complete inquiry into the merits of his allegations, and that he may have such relief in the premises, as provided by law and to this Honorable

Court may seem meet and just; for which your petitioner will ever pray, etc.

[fol. 22] And to any adverse ruling upon this petition, by this Honorable Court, your petitioner in his own proper person, now here respectfully duly excepts. All of which is,

Respectfully submitted, Talbot Jennings, Petitioner Pro se.

STATE OF ILLINOIS,
County of Will, ss:

Talbot Jennings, being first duly sworn, on oath says; that he is the petitioner in the above captioned cause of action; that he has not the funds, property or other means with which to pay the cost of these proceedings; that by virtue of his poverty he is unable to procure counsel; that he has read and written the above and foregoing amended petition by him subscribed and knows the contents thereof, and that the statements and averments therein made are each and everyone of them true to the best of his knowledge and belief; that the exhibits attached to said petition are perfect and complete copies of the Common Law Record and portions of the Transcript of Proceedings as they appear in the records of this Court, and the Notes of the Official Shorthand Reporter as received by me from the Chief Clerk of the Cook County Criminal Court and from the Office of the Official Shorthand Reporters of said Court.

Talbot Jennings, Affiant.

Subscribed and sworn to before me this 12 day of September, A. D. 1950. Leo H. Gambrel, Notary Public. My Commission Expires December 2, A. D. 1953. ("Copy" Seal.)

[fol. 23] EXHIBIT A

IN THE CRIMINAL COURT OF COOK COUNTY

General No. 48-1247

THE PEOPLE OF THE STATE OF ILLINOIS

vs.

TALBOT JENNINGS (Impleaded)

[fol. 24] MINUTE ENTRY—June 7, 1948

And afterwards, to wit: on the Seventh day of June in the year last aforesaid, the Sheriff of Cook County returned into Court the Venire Facias heretofore issued for a Grand Jury for this term and returnable to-day, by which it appears that the fol-owing named persons have been duly summoned to appear this day and serve as Grand Jurors at the present term of this Court:

Charles Carey
Robert L. Burke
Adolph F. Stark
Arthur A. Wallace
Gordon H. Gannett, Jr.
Joseph Morey
Donald M. Kennedy
Albert Roy Burckhalter
Mary H. Ackerman
Marshall C. Shields
Elsie A. Douglass
Harold B. McEldowney
Margaret C. Spurgin
Sarah Judson
Andrew V. Gallagher
John L. Monier
William C. Ewert
Paul T. Cronin
Mathias J. Kately
Andrew Kowal
Joseph L. Fisher
Harry Fein
Wirta Wamble

who answered to their respective names.

The panel of Grand Jurors being now filled, the Court having now here appointed Charles Carey foreman of said Grand Jury, the Grand Jurors aforesaid were duly sworn and charged by the Court, and thereupon retired to consider their presentments.

[fol. 25] [Caption omitted]

MINUTE ENTRY—June 29, 1948

The Grand Jurors returned into open Court and made an presentment endorsed "A True Bill" in the following entitled cause, to wit:

Indictment for Robbery, Etc.

THE PEOPLE OF THE STATE OF ILLINOIS

vs.

TALBOT JENNINGS (Impleaded)

Bail—$10,000.00 each.

[fol. 26] Of the June Term of the Criminal Court of Cook County, in said County and State in the Year of our Lord, one thousand nine hundred and forty eight.

STATE OF ILLINOIS,
County of Cook, ss:

Count 1. The Grand Jurors chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that one Arthur Smith, Junior one Talbot Jennings and one Edgar Donald Morgan, late of the County of Cook, on the twenty fourth day of May in the year of our Lord one thousand nine hundred and forty eight, in said County of Cook, in the State of Illinois aforesaid feloniously and violently made an assault in and upon one Sidney L. Barr then and there being, and then and there put said Sidney L. Barr in bodily fear and danger of his life, and then and there feloniously and violently, by force and intimidation, robbed, stole, took and carried away from the person and against the will of said Sidney L. Barr one hundred current United States of America Treasury Notes of the denomination of one hundred dollars, of the value of one hundred dollars each; two hundred current United States of America Treasury Notes of the denomination of fifty dollars, of the value of fifty dollars each; one hundred current United States of America

Treasury Notes of the denomination of twenty dollars, of the value of twenty dollars each; one hundred current United States of America Treasury Notes of the denomination of ten dollars, of the value of ten dollars each; one hundred current United States of America Treasury Notes of the denomination of five dollars, of the value of five dollars each; two hundred current United States of America Treasury Notes of the denomination of two dollars, of the value of two dollars each; five hundred current Silver Certificates issued by the Treasury of the United States of America, of the denomination of one dollar, of the value of one dollar each; sundry current Bank Bills, commonly called National Currency, issued by certain National Banks, the Banks of issue being to said jurors unknown; of divers denominations, the denominations being to said jurors unknown, of the amount and value in all of one hundred and sixty five dollars; sundry current Bank Bills, commonly called Greenbacks, issued by the Treasury of the United States of America, of divers denominations, the denominations being to said jurors unknown, of the amount and value in all of one hundred and sixty five dollars; sundry current Federal Reserve Notes issued by certain Federal Reserve Banks of the United States of America, the Banks of issue being to said jurors unknown, of divers denominations, the denominations being to said jurors unknown, of the amount and value in all of one hundred and sixty five dollars; sundry current Federal Reserve Bank Notes issued by certain Federal Reserve Banks of the United States of America, the Banks of issue being to said jurors unknown, of divers denominations, the denominations being to said jurors unknown, of the amount and value in all of one hundred and sixty five dollars; five hundred pieces of silver current coin of the United States of America, called one dollar, of the value of one dollar each; five hundred pieces of silver current coin of the United States of America, called half dollar; of the value of fifty cents each; five hundred pieces of silver current coin of the United States of America, called quarter dollar; of the value of twenty-five cents each; five hundred pieces of silver current coin of the United States of America, called one dime, of the value of ten cents each; five hundred pieces of silver current coin of the United States of America, called half

dime of the value of five cents each; five hundred pieces of nickel current coin of the United States of America, called five cent of the value of five cents each; five hundred pieces of copper current coin of the United States of America, called one cent, of the value of one cent each; one hundred pieces of gold current coin of the United States of America, called twenty dollars, of the value of twenty dollars each; one hundred pieces of gold current coin of the United States of America, called ten dollars, of the value of ten dollars each; one hundred pieces of gold current coin of the United States of America, called five dollars, of the value of five dollars each; one hundred pieces of gold current coin of the United States of America, called two dollars and fifty cents, of the value of two dollars and fifty cents each; one hundred pieces of gold current coin of the United States of America, called one dollar, of the value of one dollar each; one hundred watches, each of the value of twenty five dollars lawful money of the United States of America; one hundred and fifty rings, each of the value of fifty dollars lawful money of the United States of America; ninety rings, each of the value of six dollars lawful money of the United States of America; one fountain pen of the value of ten dollars lawful money of the United States of America, and one pencil of the value of five dollars lawful money of the United States of America, of the money, personal goods and property of said Sidney L. Barr; and the Grand Jurors aforesaid, upon their oaths aforesaid, do further present that said Arthur Smith, Junior said Talbot Jennings and said Edgar Donald Morgan then and there were armed with a certain dangerous weapon to-wit, a certain pistol contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

[fol. 27] Count 2. The Grand Jurors aforesaid, chosen, selected and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oath aforesaid, do further present that one Arthur Smith, Junior one Talbot Jennings and one Edgar Donald Morgan, late of the County of Cook, on the twenty fourth day of May in the year of our Lord one thousand nine hundred and forty eight, in said county of Cook, in the State of Illinois aforesaid, feloniously and violently made an assault in and upon one Sidney L. Barr then and there being, and then and

there put said Sidney L. Barr in bodily fear and danger of his life, and then and there feloniously and violently, by force and intimidation, robbed, stole, took, and carried away from the person and against the will of said Sidney L. Barr one hundred current United States of America Treasury Notes of the denomination of one hundred dollars, of the value of one hundred dollars each; two hundred current United States of America Treasury Notes of the denomination of fifty dollars, of the value of fifty dollars each; one hundred current United States of America Treasury Notes of the denomination of twenty dollars, of the value of twenty dollars each; one hundred current United States of America Treasury Notes of the denomination of ten dollars, of the value of ten dollars each; one hundred current United States of America Treasury Notes of the denomination of five dollars, of the value of five dollars each; two hundred current United States of America Treasury Notes of the denomination of two dollars, of the value of two dollars each; five hundred current Silver Certificates issued by the Treasury of the United States of America, of the denomination of one dollar, of the value of one dollar each; sundry current Bank Bills, commonly called National Currency, issued by certain National Banks, the Banks of issue being to said jurors unknown, of divers denominations, the denominations being to said jurors unknown, of the amount and value in all of one hundred and sixty five dollars; sundry current Bank Bills, commonly called Greenbacks, issued by the Treasury of the United States of America, of divers denominations, the denominations being to said jurors unknown, of the amount and value in all of one hundred and sixty five dollars; sundry current Federal Reserve Notes issued by certain Federal Reserve Banks of the United States of America, the Banks of issue being to said jurors unknown, of divers denominations, the denominations being to said jurors unknown, of the amount and value in all of one hundred and sixty five dollars; sundry current Federal Reserve Bank Notes issued by certain Federal Reserve Banks of the United States of America, the Banks of issue being to said jurors unknown, of divers denominations, the denominations being to said jurors unknown, of the amount and value in all of one hundred and sixty five dollars; five hundred pieces of silver current coin of the United States of America, called one dollar, of the

value of one dollar each; five hundred pieces of silver current coin of the United States of America, called half dollar, of the value of fifty cents each; five hundred pieces of silver current coin of the United States of America, called quarter dollar, of the value of twenty-five cents each; five hundred pieces of silver current coin of the United States of America, called one dime, of the value of ten cents each; five hundred pieces of silver current coin of the United States of America, called half dime, of the value of five cents each; five hundred pieces of nickel current coin of the United States of America, called five cent, of the value of five cents each; five hundred pieces of copper current coin of the United States of America, called one cent, of the value of one cent each; one hundred pieces of gold current coin of the United States of America, called twenty dollars, of the value of twenty dollars each; one hundred pieces of gold current coin of the United States of America, called ten dollars, of the value of ten dollars each; one hundred pieces of gold current coin of the United States of America, called five dollars, of the value of five dollars each; one hundred pieces of gold current coin of the United States of America, called two dollars and fifty cents, of the value of two dollars and fifty cents each; one hundred pieces of gold current coin of the United States of America, called one dollar, of the value of one dollar each; one hundred watches, each of the value of twenty five dollars lawful money of the United States of America; one hundred and fifty rings, each of the value of fifty dollars lawful money of the United States of America; ninety rings, each of the value of six dollars lawful money of the United States of America; one fountain pen of the value of ten dollars lawful money of the United States of America; and one pencil of the value of five dollars lawful money of the United States of America, of the money, personal goods and property of said Sidney L. Barr contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

William J. Tuohy, State's Attorney.

[fol. 28] [Endorsement:] G. J. No. 66; General No. 48-1247. Criminal Court of Cook County, June Term, A. D. 1948. The People of the State of Illinois vs. Arthur Smith, Junior, et al. Indictment for Robbery, Etc. A True Bill. Charles Carey, Foreman of the Grand Jury. Witnesses:

Sidney L. Barr, Raymond Hutchinson. Filed June 29, 1948. Vincent J. Poklacki, Clerk. Bail, $10,000.00 each.

Which indictment is then and there filed in the Office of the Clerk of the Criminal Court of Cook County.

[fol. 29] [Caption omitted]

MINUTE ENTRY—July 2, 1948

This day come the said People by William J. Tuohy, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

It is ordered by the Court that this cause be and the same is hereby continued to July 6th, A. D. 1948 without subpoenas.

[fol. 30] [Caption omitted]

MINUTE ENTRY—July 6, 1948

This day come the said People by William J. Tuohy, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

And he having been furnished with a copy of the indictment in this cause, and lists of the names of the witnesses and jurors, and he being now here duly arraigned in open court and forthwith demanded of and concerning the crime alleged against him in said indictment how he will acquit himself thereof, for a plea in that behalf says that he is Not Guilty in manner and form as charged therein, and of this he puts himself upon the Country and the said People do the like.

It is ordered by the Court that this cause be and the [fol. 31] same is hereby assigned to the Honorable Alan E. Ashcraft, Jr., Judge of the Superior Court of Cook County and Ex-Officio Judge of the Criminal Court of Cook County.

[fol. 32] [Caption omitted]

MINUTE ENTRY—July 6, 1948

This day come the said People by William J. Tuohy, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

On motion of Counsel for said Defendant, it is ordered by the Court that this cause be and the same is hereby continued to July 28th, A. D. 1948 with subpoenas.

[fol. 33] [Caption omitted]

MINUTE ENTRY—July 28, 1948

This day come the said People by William J. Tuohy, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

And by express consent and agreement between the State's Attorney and the said Defendant and his Counsel now here given and made in open Court, that this cause be and the same is hereby continued to August 13th, A. D. 1948 without subpoenas.

[fol. 34] [Caption omitted]

MINUTE ENTRY—August 13, 1948

This day come the said People by William J. Tuohy, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

Counsel for said Defendant now here moves the Court by written Motion to Suppress Evidence, which is in words and figures following to-wit:

[fol. 35] [Title omitted]

MOTION TO SUPPRESS—Filed August 13, 1948

And now comes the defendant, Talbot Jennings, in his own person and by his attorney, Howard D. Geter, to suppress the evidence obtained by the illegal search of his person and premises, located in the City of Chicago, County of Cook and the State of Illinois, by certain police officers of the Village of Oak Park and the City of Chicago, Illinois, on or about the 6th day of June, 1948, the evidence being obtained by reason thereof being as follows:

One (1) gold ring and certain personal property, the exact description of which is unknown to the petitioner, which the said police officers intend to use in the above entitled cause as evidence against the petitioner.

And the said defendant shows the following reasons for the suppressing of said evidence:

1. That at the time the police officers aforesaid entered his premises, they did so without any warrant and legal authority whatsoever, and in direct violation of his constitutional right.

2. That at the time that the said police officers entered his premises he was not in the violation of any law nor was he guilty of any violation of any law.

3. That the police officers were not at the time of their illegal entry in search of his premises in the pursuit of a felon nor did the police officers have any right to suspect that the said defendant was guilty of the violation of any law.

Wherefore, the defendant asks:

[fol. 36] 1. That the Court enter an Order suppressing the evidence mentioned herein which was illegally obtained by the said police officers.

2. That the Court enter a further Order directing said police officers to return said property to the defendant which was taken from him by the illegal search of his premises and person.

(S.) Talbot Jennings.

Duly sworn to by Talbot Jennings. Jurat omitted in printing.

[File endorsement omitted.]

[fol. 37] And the Court hearing the Motion to Suppress Evidence in part.

And it is ordered by the Court that the hearing on Motion to Suppress Evidence be and the same is hereby continued to August 25th, A. D. 1948 without subpoenas.

[fol. 38] [Caption omitted].

MOTION TO SUPPRESS EVIDENCE OVERRULED—August 26, 1948

This day come the said People by William J. Tuohy, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

Motion to Suppress Evidence heretofore entered herein. Hearing on Motions.

And the Court hearing Counsel in support of the Motion to Suppress Evidence, heretofore entered herein, as well as in opposition thereto, and being fully advised in the premises, doth overrule said motion and orders that said Motion to Suppress Evidence, heretofore entered herein, in this cause be and the same is hereby overruled accordingly.

It is ordered by the Court that this cause be and the same is hereby continued to October 4th, A. D. 1948 with subpoenas.

[fol. 39] [Caption omitted].

MINUTE ENTRY—October 4, 1948

This day come the said People by William J. Tuohy, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

On motion of State's Attorney, it is ordered by the Court that this cause be and the same is hereby continued to November 4th, A. D. 1948 with subpoenas.

[fol. 40] [Caption omitted]

MINUTE ENTRY—November 4, 1948

This day come the said People by William J. Tuohy, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

On motion of State's Attorney, it is ordered by the Court that this cause be and the same is hereby continued to December 13th, A. D. 1948 with subpoenas.

And the said Defendant by his Counsel now here demands trial at the present term of this Court.

[fol. 41] [Caption omitted]

MOTION TO DISCHARGE DEFENDANT OVERRULED—December 13, 1948

This day come the said People by John S. Boyle, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

Counsel for said Defendant now here moves the Court to discharge said Defendant.

And the Court hearing Counsel in support of said motion as well as in opposition thereto and being fully advised in the premises doth overrule said motion and orders that said motion to discharge be and the same is hereby overruled accordingly.

On motion of State's Attorney, it is ordered by the Court that this cause be and the same is hereby continued to December 23rd, A. D. 1948 with subpoenas.

[fol. 42] [Caption omitted]

MINUTE ENTRY—December 23, 1948

This day come the said People by John S. Boyle, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

Plea of Not Guilty heretofore entered to the indictment in this cause.

And now issue being joined it is ordered that Jury come.

And Counsel now proceed to select a Jury for the trial in this cause. And Sylvia M. Maloum, Robert W. Vanderplow, Lillian A. Sauer, Alice J. Pritchard, having been accepted. were duly sworn.

And by express consent and agreement between the State's Attorney and the said Defendant and his Counsel now here given and made in open Court, it is ordered that the further examination of Jurors and consideration of this cause be and the same is hereby continued to December 27th, A. D. 1948.

[fol. 43] [Caption omitted]

MINUTE ENTRY—December 27, 1948

This day come the said People by John S. Boyle, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

And also come the Four (4) Jurors heretofore accepted and prospective Jurors.

And Counsel now further proceed to select a Jury for the trial of this cause. And Paul Parise, Paul W. Moeller, Libby E. Danek, Catherine Albinger, Charles E. Stark, Henry J. Tobin, Phillip M. Piechocki, Epol Pivaronas, having been accepted were duly sworn, together with the

Four (4) Jurors heretofore accepted and sworn making a complete panel.

And the Jury hearing the opening statements of the State's Attorney.

Counsel for said Defendant waives opening statements.

And Counsel for said Defendant now here moves the Court to exclude witnesses.

And the Court hearing Counsel in support of said motion as well as in opposition thereto, and being fully advised in the premises, doth sustain said motion and orders that said motion to exclude witnesses be and the same is hereby sustained accordingly.

And the Jury hearing the testimony of witnesses.

It is ordered by the Court that this cause be and the same is hereby continued until tomorrow, December 28th, A. D. 1948 at 10:00 A. M.

[fol. 44] [Caption omitted]

MINUTE ENTRY—December 28, 1948

This day come the said People by John S. Boyle, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

And also come the Jurors of the Jury aforesaid, and they hearing the further testimony of witnesses.

And it is ordered by the Court that this cause be and the same is hereby continued until tomorrow, December 29th, A. D. 1948.

[fol. 45] [Caption omitted]

MINUTE ENTRY—December 29, 1948

This day come the said People by John S. Boyle, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

And also come the Jurors of the Jury aforesaid, and they hearing the further testimony of witnesses.

And it is ordered by the Court that this cause be and the same is hereby continued until tomorrow, December 30th, A. D. 1948 at 10:00 A. M.

[fol. 46] [Caption omitted]

MINUTE ENTRY—December 30, 1948

This day come the said People by John S. Boyle, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

And also come the Jurors of the Jury aforesaid, and they hearing the further testimony of witnesses.

And, by express consent and agreement between the State's Attorney and the said Defendant and his Counsel now here given and made in open Court, it is ordered by the Court that this cause be and the same is hereby continued until January 3, A. D. 1949 at 11:00 A. M.

[fol. 47] [Caption omitted]

MINUTE ENTRY—January 3, 1949

This day come the said People by John S. Boyle, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

And also come the Jurors of the Jury aforesaid, and they hearing the further testimony of witnesses.

It is ordered by the Court that this cause be and the same is continued until tomorrow, January 4th, A. D. 1949 at 10:00 A. M.

[fol. 48] [Caption omitted]

MINUTE ENTRY—January 4, 1949

This day come the said People by John S. Boyle, State's Attorney and the said Defendant as well in his own proper person as by this Counsel also comes.

And also come the Jurors of the Jury aforesaid, and they hearing the further testimony of witnesses.

It is ordered by the Court that this cause be and the same is hereby continued until tomorrow, January 5th, A. D. 1949 at 10:00 A. M.

[fol. 49] [Caption omitted]

MOTION FOR INSTRUCTED VERDICT OVERRULED—January 5, 1949

This day come the said People by John S. Boyle, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

And also come the Jurors of the Jury aforesaid, and they hearing the further testimony of witnesses.

Age of Defendant Talbot Jennings, 26 years.

Counsel for said Defendant now here moves the Court to instruct the Jury to find the said Defendant Not Guilty in this cause.

And the Court hearing Counsel in support of said motion as well as in opposition thereto and being fully advised in the premises, doth overrule said motion and orders that said motion be and the same is hereby overruled accordingly.

And the aforesaid Jury hearing the further testimony of witnesses.

It is ordered by the Court that this cause be and the same is hereby continued until tomorrow, January 5th, A. D. 1949, at 10:00 A. M.

[fol. 50] [Caption omitted]

MINUTE ENTRY—January 6, 1949

This day come the said People by John S. Boyle, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

And also come the Jurors of the Jury aforesaid, and they hearing the further testimony of witnesses.

It is ordered by the Court that this cause be and the same is hereby continued until tomorrow, January 7th, A. D. 1949 at 10:00 A. M.

[fol. 51] [Caption omitted]

MINUTE ENTRY—January 7, 1949

This day come the said People by John S. Boyle, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

And also come the Jurors of the Jury aforesaid and they hearing the further testimony of witnesses.

Counsel for said Defendant now here moves the Court for Exhibits to be given to Jury while considering of their verdict.

And the Court hearing Counsel in support of said motion as well as in opposition thereto and being fully advised in the premises doth sustain said motion and orders that said motion be and the same is hereby sustained accordingly.

Jury returns into open Court and for their verdict say:

> "We, the Jury, find the Defendant Talbot Jennings, Guilty of Robbery in manner and form as charged in the indictment. And we further find from the evidence that at the time of the commission of said Robbery, the defendant Talbot Jennings, was armed with a dangerous weapon, to wit: with a pistol. And we further find from the evidence that the said Defendant is now about the age of 26 years."

It is ordered by the Court that the said Defendant be allowed ten (10) days time in which to prepare and file his written Motion for a New Trial and written Motion in Arrest of Judgment in this cause.

On motion of Counsel for said Defendant, it is ordered by the Court that the Hearing on the Motions be and the same is hereby continued until January 28th, A. D. 1949.

[fol. 55] [Caption omitted]

MINUTE ENTRY—January 28, 1949

This day come the said People by John S. Boyle, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

Counsel for said Defendant now here moves the Court by written Motion for a New Trial in this cause, which said Motion is in words and figures following to wit:

[fol. 56] [Title omitted]

MOTION FOR NEW TRIAL—Filed January 28, 1949

And now, after verdict and before sentence, the said Arthur Smith, Edgar Donald Morgan and Talbot Jennings, defendants in the above entitled action, by Howard D. Geter, the Counsel, come and move the Court to set aside

And by express consent and agreement between the State's Attorney and the said Defendant and his Counsel now here given and made in open Court, it is ordered by the Court that this cause be and the same is hereby continued until Monday, January 10th, A. D. 1949 at 10:00 A. M.

[fol. 52] [Caption omitted]

MINUTE ENTRY—January 10, 1949

This day come the said People by John S. Boyle, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

And also come the Jurors of the Jury aforesaid and they hearing the further testimony of witnesses.

It is ordered by the Court that this cause be and the same is hereby continued until tomorrow, January 11th, A. D. 1949 at 10:00 A. M.

[fol. 53] [Caption omitted]

MINUTE ENTRY—January 11, 1949

This day come the said People by John S. Boyle, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

And also come the Jurors of the Jury aforesaid and they hearing the further testimony of witnesses.

And by express consent and agreement between the State's Attorney and the said Defendant and his Counsel now here given and made in open Court, it is ordered by the Court that this cause be and the same is hereby continued until tomorrow, January 12th, A. D. 1949.

[fol. 54] [Caption omitted]

VERDICT—January 12, 1949

This day come the said People by John S. Boyle, State's Attorney and the said Defendant as well in his own proper person as by his Counsel also comes.

And also come the Jurors of the Jury aforesaid, and they hearing the arguments of Counsel and instructions of the Court, retire in charge of sworn Officers of this Court to consider of their verdict.

the verdict of the jury and for a new trial in said cause, upon the ground and for the reasons following:

1. The Court erred in not discharging the defendants on motion because they were not tried within four months after their arrest, as is by statute provided.

2. The court erred in not supressing certain evidence on motion of the defendants made before trial.

3. The verdict is not sustained by evidence of the defendants guilt beyond a reasonable doubt.

4. The verdict is contrary to the law and the evidence.

5. The Court should have sustained the motion to find the defendants not guilty at the close of the People's case.

6. The Court erred in allowing the confessions of the defendants to go to the jury because said confessions were made under duress.

7. The Court admitted improper and illegal evidence offered by the People over the defendant's objection.

[fol. 57] 8. The Court refused to allowed the defendants to ask certain proper questions of the People's witnesses on cross-examination.

9. The Court admitted improper evidence in rebuttal over the defendant's objection.

10. The Court erred in giving instructions for the People asked by the State's Attorney, and each and every one of them.

11. The Court erred in not giving all of the instructions asked for by the defendants.

12. The evidence introduced by the People is insufficient to support the verdict of the jury.

13. The State's Attorney during the trial and argument of the case was guilty of prejudicial misconduct and abuse of the privilege of argument to the prejudice of the defendants as shown by the record.

(Signed) Howard D. Geter, Attorney for Arthur Smith, Edgar Donald Morgan and Talbot Jennings.

[File endorsement omitted.]

[fol. 58] ORDER OVERRULING MOTION FOR NEW TRIAL—January 28, 1949

And the Court hearing Counsel in support of said motion as well as in opposition thereto and being fully advised in the premises, doth overrule said motion and orders that said motion be and the same is hereby overruled accordingly.

And Counsel for said Defendant now here moves the Court by written motion in arrest of Judgment in this cause, which said motion is in words and figures following, to-wit:

[fol. 59] [Title omitted]

MOTION IN ARREST OF JUDGMENT—Filed January 28, 1949

The Defendant, Arthur Smith, Edgar Donald Morgan and Talbot Jennings, by Howard D. Geter, their attorney, now come and move the Court to arrest the judgment upon the verdict of the jury and for reasons therefore show the following:

1. That the Court was without jurisdiction to hear the charge against the defendants since the indictment shows that the defendants were not tried within four months of the date of their commitment, which delay was not caused through any fault on their part.

2. The Constitutional rights of the defendants were violated because of the illegal arrests and illegal searches of their persons and premises.

3. The defendants were compelled to give evidence against themselves by making confessions under duress.

(Signed) Howard D. Geter, Attorney for Defendants.

[File endorsement omitted.]

[fol. 60] ORDER OVERRULING MOTION IN ARREST OF JUDGMENT—January 28, 1949

And the Court hearing Counsel in support of said motion as well as in opposition thereto and being fully advised in the premises, doth overrule said motion and orders that said motion in Arrest of Judgment be and the same is hereby overruled accordingly.

JUDGMENT AND SENTENCE—January 28, 1949

Judgment of the Court is: Judgment on the verdict, heretofore entered herein January 12th, 1949, the Defendant is Guilty of Robbery while armed in the manner and form as charged in the indictment.

Defendant sentenced on Verdict and Judgment to the Illinois State Penitentiary and the Court fixes the minimum limit or duration of imprisonment for a term of not less than Ten (10) years and not more than Twenty five (25) years, as provided by law.

And now neither the said Defendant nor his Counsel for him saying anything further why the judgment of the Court should not now be pronounced against him on the verdict and judgment of guilty, heretofore rendered to the indictment in this cause.

Therefore, it is considered, ordered and adjudged by the Court that the said Defendant Talbot Jennings is guilty of the said crime of Robbery while armed in manner and form as charged in the indictment in this cause, and the said verdict and judgment of guilty.

Therefore, it is ordered and adjudged by the Court that the said Defendant Talbot Jennings be and he hereby is sentenced to the Illinois State Penitentiary for the crime of Robbery while armed in manner and form as charged in the indictment whereof he stands convicted, for a term of years not less than ten years, nor more than twenty five years, for the crme whereof he stands convicted, and it is further ordered and adjudged that the said Defendant Talbot Jennings be taken from the bar of the Court to the Common Jail of Cook County, and from thence by the Sheriff of Cook County to the Illinois State Penitentiary, and be delivered to the Department of Public Safety and the said Department of Public Safety is hereby required and com- [fol. 61] manded to take the body of the said Defendant Talbot Jennings and confine him in said Penitentiary, according to law, from and after the delivery thereof until discharged according to law, provided such term of imprisonment in said Penitentiary shall not be less than Ten years, nor more than twenty five years, for the crime for which the said Defendant was convicted and sentenced.

It is further ordered that the said Defendant pay all the cost of these proceedings, and that execution issue therefor.

[fol. 62] Clerk's Certificate to foregoing record omitted in printing.

[fol. 63]

EXHIBIT B

IN THE CRIMINAL COURT OF COOK COUNTY

[Title omitted]

PROCEEDINGS ON MOTION TO SUPPRESS EVIDENCE

Procedings had in the above entitled cause on Friday, August 13, 1948, before the Honorable Alan E. Ashcraft, sitting as a Judge of said court:

Present: Hon. Wm. J. Tuohy, State's Attorney, by Mr. James Brown, Assistant State's Attorney, Attorneys for the People. Mr. Howard Geter, Attorney for the defendants.

[fol. 64] RAYMOND HUTCHISON, called as a witness by the defendants herein, having been first duly sworn, testified as follows:

Direct examination.

By Mr. Geter:

Q. What is your name, sir?
A. Raymond Hutchison.
Q. You are a police officer, are you?
A. Yes, sir.
Q. Where are you assigned, Officer?
A. Oak Park, Illinois.
Q. Do you live in Oak Park?
A. Yes, sir.
Q. Where?
A. 701 North Taylor Avenue.
Q. Calling your attention to on or about the 5th or 6th of June, 1948, did you have occasion to arrest one Edgar Donald Morgan?
A. Yes, sir, I did.
Q. Where did you make that arrest?
A. At the Evans Hotel, 61st and Evans, Chicago.

The Court: Whom did you arrest? Smith?
A. Morgan.

Mr. Geter:

Q. What time of the day or night was that, Officer?
A. Around five-thirty in the evening.
Q. And who was with you at the time you made this arrest?
[fol. 65] A. My partner and Officer Miles of the Chicago police.
Q. What is your partner's name?
A. Officer Piotter.
Q. Is he the officer that is here today?
A. Yes, sir, he just left the room.

Mr. Brown: What date was that?
Mr. Geter: That was the 5th day of June.

Q. Did you have a warrant for his arrest at that time?
A. Not at that time, no, sir.
Q. And where was he when you arrested him?
A. In a hotel room.
Q. How did you get into the hotel room?
A. We had a key to the room.
Q. How did you get that key?
A. It was given to us by the man that had the room with him.
Q. Where did you see this man?
A. 42nd and Ellis.
Q. 42nd and Ellis?
A. Yes, sir, 4201 Ellis Avenue.
Q. That is about how far from the Evans Hotel?
A. It is quite a ways; a couple of miles.
Q. And was this man with you that you say had this room with him?
A. Was he with us?
Q. Was he with you when you went there?
A. No.
[fol. 66] Q. Did you say anything to—did you know Morgan before you went there?
A. Yes.
Q. Where did you know him?
A. I was informed who he was and told who he was and knew all about him before I went to the room.

Q. Had you ever met him?
A. No, I hadn't.
Q. Had you ever seen him?
A. No.
Q. And after you got into this room, what did you do, if anything?
A. After we entered the room?
Q. Yes.
A. Placed him under arrest, told him he was under arrest.
Q. Did you tell him what he was under arrest for?
A. That is right.
Q. What did you tell him?
A. For armed robbery.
Q. For armed robbery?
A. That is right.
Q. Did you know him?
A. No. My information—I did place him under arrest. I had knowledge to believe he was the man I wanted.
Q. What made you believe that?
A. I was informed from two different sources that he was the man who was involved. We already had one man in custody who told me he was the man who was with him.
Q. Who were these people that informed you?
[fol. 67] A. Arthur Smith and Fred Anderson.
Q. When did they give you this information?
A. Arthur Smith gave me that information on about the 28th day of May.
Q. Arthur Smith. Did he sign a complaint against this boy Morgan?
A. No.
Q. Did anyone at any time sign a complaint against him?
A. Yes, later.
Q. I mean before you arrested him?
A. No, sir.
Q. What was Morgan doing when you went into the room?
A. He was in bed.
Q. How was he dressed, or was he dressed?
A. He was naked.
Q. Did he have on any clothes at all?
A. None at all.
Q. After you placed him under arrest, then what did you do?
A. After I placed him under arrest I noticed a loaded pistol, a loaded revolver, lying on the dresser.

Q. Lying on top of the dresser?
A. Lying on top of the dresser.
Q. That is after you placed him under arrest?
A. After I placed him under arrest.
Q. Did you go in any of the dresser drawers there?
A. Later on, yes, we did.
[fol. 68] Q. Did you find anything in the drawers?
A. No, sir.
Q. Did you search the room, that is, I mean did you go under the mattress?
A. I don't recall whether we did or not.
Q. But you did make a search of the room, is that right?
A. Yes, sir.
Q. Did you have a search warrant to search the room?
A. No, I didn't.
Q. Had you made any application for any warrant?
A. No, I hadn't.
Q. You took this revolver, did you?
A. Yes, sir.
Q. What kind of a revolver was it?
A. It is a Spanish make, .38 caliber.
Q. Did you take anything else, any other property?
Q. Yes, there was a wrist watch there and a diamond ring.
Q. Where were they?
A. Lying right on top of the bureau, of the dresser.
Q. But you didn't get anything when you went through these drawers; you didn't get anything that you took?
A. No, I didn't. There was nothing I wanted; no evidence of any kind.
[fol. 69] Q. Before you entered this room, did you call to Morgan or anyone?
A. No, we didn't.
Q. You just took the key?
A. Opened the door and walked in.
Q. And opened the door and went on in. And this fellow that you say had this key, did he sign any complaint against Morgan?
A. No, sir.
Q. Did you arrest him also?
A. I had him in custody.
Q. Did you take that key from him or did he voluntarily give it to you?
A. He gave it to me; he offered it to me.
Q. He offered it to you?

A. That is right.
Q. And told you to go on out there and go into the room?
A. That is right.
Q. What is this fellow's name?
A. Fred Anderson.
Q. Do you know where he is now?
A. No, I don't.
Q. What happened to him after you arrested him?
A. He was arrested. The State's Attorney office saw fit to discharge him. He was not implicated in the robbery.
[fol. 70] Q. You say you knew Morgan. What did these people tell you about Morgan that made you know him?
A. All I had was a physical description, and I was told by Smith that he was carrying a pistol and that he would shoot you and he was a very dangerous character.
Q. You were told he was carrying a pistol?
A. That is right.
Q. Was he carrying a pistol when you saw him?
A. No, he had the pistol on the dresser.

Mr. Geter: I think that is all.

Cross examination.

By Mr. Brown:

Q. When was it that you talked to Arthur Smith?
A. On the 28th of May.
Q. And what was Smith arrested for at that time?
A. Smith at that time was the driver of a car that was used in committing an armed robbery.
Q. Was that the armed robbery of Sidney L. Barr?
A. Yes, sir.
Q. That is the robbery that is charged in Indictment 48-1247 which is here under discussion today?
A. Yes, sir.
Q. And Arthur Smith told you that this man Morgan was implicated in that robbery with him?
[fol. 71] A. That is right.
Q. And that he could be found at this Evans Hotel, and the defendant or co-defendant Smith in this case gave you the key and told you that you could find him there?
A. No, sir.
Q. And Smith told you that you could find Morgan there?

A. No, Smith took me to 6354 Maryland Avenue, and told me Morgan and a man by the name of Anderson roomed together at that hotel. At that hotel we found they had moved. We began looking for Fred Anderson. We arrested Fred Anderson, who had knowledge of this robbery, and he is the man that gave me the key and said he shared the room with Morgan at the Evans Hotel and that is the man we wanted for the armed robbery.

Q. And Smith also told you that Morgan was in the robbery?

A. Smith also told us that Morgan was in the robbery, better known as Blackie or Buddy.

Mr. Brown: That is all.

Mr. Geter: I want to question this officer as to the other two defendants here.

The Court: Very well.

[fol. 72] Redirect examination.

By Mr. Geter:

Q. You made the arrest of the other two defendants?

A. Yes, sir, I did.

Q. I want to just question you on that. Calling your attention to about the 28th day of May, 1948, did you arrest one Arthur Smith, the petitioner here?

A. Yes, sir.

Q. Where did you arrest him?

A. We picked him up on information at his home, I think it is 42nd Place, and took him *and took him* into the Stanton Avenue police station to question him.

Q. Did you have a warrant for his arrest at the time you took him from his home?

A. Not at that time. We were on an investigation.

Q. Did you get any personal property from Smith?

A. Yes, he was wearing a gold wedding ring. It was identified as part of the jewelry taken in the robbery.

Q. At the time you say it was identified, how did you identify it?

A. I didn't identify it.

Q. When did you take it from him?

A. We took it from him at the Detective Bureau, 11th [fol. 73] and State.

Q. And what was Smith doing when you arrested him?

A. He was hiding in a washroom.
Q. Hiding?
A. Yes, sir.
Q. He could have been washing up, couldn't he?
A. No, he wasn't.
Q. Did he know you were there?
A. Yes, he did.
Q. And then he ran into the washroom?
A. He went into the washroom and was hiding in there with the door locked and refused to open it.
Q. Until you broke it?
A. No, we didn't break it. We told him that we were police officers and wanted to talk to him, then he came out.
Q. Oh, he was hiding, but after you told him you were police officers he came out?
A. That is right.
Q. Who gave you the idea he was hiding?
A. His wife.
Q. She told you he was hiding?
A. No, she didn't tell us.
Q. She told you he was hiding in the bathroom?
A. No, she told us he was in the bathroom.
Q. As a matter of fact, didn't you tell him his car was in [fol. 74] a wreck and you wanted to take him down and question him?
A. No, we told him we were investigating who was driving his taxicab, and we wanted to know about it, and he told me he didn't see the cab.
Q. Had you ever seen Smith before?
A. No, I hadn't.
Q. At the time that you arrested Smith, no warrant had been issued for his arrest, had it?
A. No, not at that time.
Q. You had never seen him prior to that time?
A. No, sir.
Q. Was anybody with you who had ever seen him?
A. Yes, I had two witnesses.
Q. Who were with you at the time you arrested him?
A. That is right, two witnesses at the Stanton Avenue police station.
Q. I am talking about at home.
A. No, not there.
Q. You went there and you arrested him and took him over to the Stanton Avenue station?

A. After we had been told he was driving the cab on Monday, May 24th.

Q. Who told you that?

A. Marcus Williams, who was part owner of the cab.

[fol. 75] Q. Did Marcus Williams sign any complaint against him?

A. No.

Q. Did anybody sign any complaint against him?

A. Later.

Q. I mean prior to the time that you arrested him?

A. No, sir.

Q. You arrested him at his home?

A. Picked him up at his home and took him to the Stanton Avenue station. He was later arrested at the Stanton Avenue police station.

Q. Calling your attention to on or about the 6th day of June, 1948, did you arrest one Talbot Jennings?

A. No, I did not.

Q. Were you present when he was arrested?

A. No, I was not.

Q. You don't know anything about this gentleman here, Talbot Jennings?

A. I know what led up to his arrest.

Q. You didn't make the arrest?

A. No, sir.

Q. You don't know whether anybody had a warrant for his arrest or not?

A. No, I don't.

Mr. Geter: That is all.

[fol. 76] Cross-examination.

Mr. Brown:

Q. As I understand it, then, Officer, in connection with this armed robbery of Sidney L. Barr which is charged in Indictment 48-1247, you made an investigation, and did you find from that investigation that a seven passenger Buick cab had been used in the robbery?

A. Yes, sir.

Mr. Geter: Your Honor, I am going to object to counsel leading the witness.

Mr. Brown: This is cross-examination, your Honor. He is not my witness.

Mr. Geter: But you have no right to tell him what to say. It is leading on cross-examination.

The Court: The objection is overruled.

By Mr. Brown:

Q. Then did you go to a gas station and find out from the gas station in the course of your investigation that they saw this cab parked at the place where the robbery was occurring, and they got the license number and the description of it?

A. They got the physical description of the cab and driver.

Q. And the driver. And from the description you found [fol. 77] out that that driver was Marcus Williams, did you?

A. That is right.

Q. Then you went to Marcus Williams and found out that he was the owner of that cab?

A. That is right; he was part owner of the taxicab with Arthur Smith.

Q. And after talking with Marcus Williams, he told you that his partner was the defendant, Arthur Smith?

A. That is right.

Q. Then you went and arrested Smith?

A. He told me also that Smith had taken the cab from him Monday morning, May 24th, and never returned it—left it parked on the street that night and told him to come and get it. That was the taxicab we were laying for.

Q. And May 24th was the date of this robbery, was it?

A. That is right.

Mr. Brown: That is all.

Redirect examination.

By Mr. Geter:

Q. On your investigation when you found out all these physical descriptions and all that, did you ever have any- [fol. 78] body swear out a complaint and name anybody by that physical description?

A. No.

Q. You just started out looking for people after you talked to these people, is that right?

A. That is right.

Q. You never had occasion to inform him there was a robbery committed, is that right?

A. That is right.

Q. And did this man—did you talk to him prior to the time that you arrested these fellows?

A. Yes.

Q. And he gave you certain descriptions, is that right?

A. That is right.

Q. Did you ever go before any magistrate and ask that a warrant be sworn out for these individuals?

A. Yes, we had a John Doe warrant. I was carrying a John Doe warrant to use in my investigation. I never saw fit to use it. I didn't need it.

Q. You carried a John Doe warrant?

A. Yes.

Q. Where is it?

A. I have it in my files.

Q. What do you mean by a John Doe warrant?

A. On information I had; and the description and the information given by Smith, I took out a John Doe warrant. [fol. 79] In case I had to go before the court I had a John Doe warrant.

Q. This Marcus who talked to you, you arrested him also, didn't you?

A. No, he was taken in for investigation.

Q. Didn't you take Marcus to Oak Park and keep him in jail out there a day or two?

A. Yes, he was in custody.

Q. Did he fit that description that you are talking about?

A. No.

Q. Why did you arrest him?

A. We took him out there. He was not arrested. He was released the same day.

Q. What do you mean, he was not arrested?

A. Took him out to question him.

Q. What do you mean he was not arrested?

Mr. Brown: I object to cross-examining his own witness.

Mr. Geter:

Q. You arrested him, didn't you?

A. No, I didn't. He was a suspect. He was under investigation.

Q. Maybe you and I don't understand about "arrest". You locked him up out there, didn't you?

A. He was in custody a few hours.

Q. He was in custody, is that right?

[fol. 80] A. Yes, he was.

Q. Did you arrest anybody else on these investigations?

A. Yes.

Q. This Anderson, you arrested him, didn't you?

A. Arrested Fred Anderson.

Q. Did he answer any of the descriptions that you had?

A. No, he didn't.

Mr. Geter: That is all.

Recross examination.

By Mr. Brown:

Q. Were these people taken in as material witnesses, as our statute provides for?

A. Yes, sir.

Q. And after you got your information from them, you released them, is that right?

A. They were released.

Mr. Brown: That is all.

Redirect examination.

By Mr. Geter:

Q. You say the statute provides you can pick anybody up as a material witness?

A. If I have information and belief, yes, and some evidence.

Q. You can arrest them without a warrant, is that right?

[fol. 81] A. I didn't say we arrested them.

Q. You don't call that arresting when you take them in?

A. No.

Q. O. K.

Mr. Brown: Chapter 38, counsel.

Mr. Geter: That is all, Officer.

Mr. Brown: That is all.

(Witness excused.)

EDWARD PIOTTER called as a witness by the defendants, having been first duly sworn, testified as follows:

Direct examination.

By Mr. Geter:

Q. What is your name, sir?
A. Edward Piotter.
Q. Where do you live?
A. 820 Belford Avenue, Oak Park.
Q. You are a police officer of the Village of Oak Park?
A. Yes, sir.
Q. Calling your attention to on or about the 5th day of June, 1948, did you have occasion to be with Officer Hutchison when Edgar Donald Morgan was arrested?
[fol. 82] A. Yes, sir, I did.
Q. Where was that arrest?
A. At the Evans Hotel.
Q. About what time was that?
A. About five-thirty in the afternoon.
Q. And did you know Edgar Donald Morgan prior to the time that you went there; that is, you had never met him, had you?
A. No, sir.
Q. Had you ever seen him?
A. No, I hadn't.
Q. Had you ever seen a warrant for his arrest?
A. We had a John Doe warrant for his arrest, yes.
Q. I mean—for his arrest, you say?
A. Yes.
Q. Did you arrest anybody else under that John Doe warrant?
A. No.
Q. Nobody at all?
A. No.
Q. How did you get into the Evans Hotel?
A. We had a key.
Q. Had a key?
A. Yes.
Q. How did you get that key, Officer?
A. From a friend of his by the name of Fred Anderson.
Q. Well, how did you happen to get it?
A. Well, we picked up Fred Anderson because he was [fol. 83] rooming with Morgan at one time—we picked

him up and he told us where we could find him. He says, "Here is the key to his room in the Evans Hotel. He is there now."

Q. He ran his hand in his pocket and told you "Here is the key"?

A. Yes, sir.

Q. What happened to him then, that is, Anderson?

A. A Chicago squad had him in their car. I believe they took him over to the Wabash Avenue Station.

Q. Did you ever see him after that time?

A. Yes, sir.

Q. When and where?

A. We picked him up at the Wabash Avenue Station after we made the arrest of Morgan.

Q. Then you took him in with Morgan?

A. We took him to the Bureau at 11th and State.

Q. Did anybody identify this fellow Anderson at this place as being one of the men who had participated in some kind of a robbery?

A. Not at the hotel.

Q. I mean at 11th Street when you had Morgan and Anderson there.

A. Yes, he was identified there.

[fol. 84] Q. Was Anderson identified?

A. Anderson? No.

Q. Nobody said anything to Anderson at all?

A. Anderson had no part in it.

Q. When you got to the Evans Hotel with this key, did you knock on the door or what?

A. No, we just opened the door.

Q. You unlocked it and went in?

A. Yes, sir.

Q. You didn't say anything before you entered?

A. No.

Q. Did you search the premises after you got inside?

A. After we placed him under arrest we looked around the premises, yes.

Q. What do you mean by looking around?

A. We looked around. For one thing, we found a gun that was used in a robbery.

Q. Wait just a minute, now. You found a gun.—You don't know whether it was used in the robbery or not?

A. It was later identified that it was used.

Q. You didn't know at that time whether it was used in any robbery?

A. No.

Q. You found a gun?

A. Yes.

Q. Where did you find this gun?

[fol. 85] A. On top of the dresser.

Q. What else did you find on top of the dresser, if anything?

A. We didn't find anything else.

Q. Who found this gun up there?

A. Officer Hutchison.

Q. And when you walked in the room, the first thing you saw was the gun, wasn't it?

A. No. The first thing I saw was Morgan. I was looking for Morgan.

Q. You were looking for Morgan?

A. Yes.

Q. But you didn't know Morgan otherwise than what this fellow had told you?

A. Just from a description of him.

Q. What was Morgan doing at the time you walked in?

A. He was in bed.

Q. What kind of clothes did he have on, if any?

A. Just his shorts on.

Q. He had on shorts?

A. Yes.

Q. Was there anybody else in the room there with him?

A. Yes.

Q. How many people?

A. Two girls.

Q. And you took Morgan on away, is that right?

A. Pardon me?

Q. You took him away?

A. Yes.

[fol. 86] Q. Did you take anybody else with you?

A. Yes, I believe his girl friend came along with us.

Q. She came along?

A. Yes.

Q. What do you mean she came along?

A. She came along with us.

Q. Did she go all the way to Oak Park with you?

A. Yes.

Q. Did you keep her out there all night?
A. Yes.
Q. She volunteered to stay in jail all night?

Mr. Brown: I object as being immaterial, your Honor.
Mr. Geter: I don't know whether it is or not. I want to show the method these fellows used.
The Court: What do you mean?
The Witness: She had no objection.

Mr. Geter:

Q. As a matter of fact, you arrested her, didn't you?
A. She was under arrest, sure; she was in custody.
Q. Calling your attention to on or about the 28th day of May, 1948, did you have occasion to arrest or be at a place where Arthur Smith was arrested?
A. No, I was not there. I was not there when he was arrested.
[fol. 87] Q. You don't know any of the circumstances?
A. I was at the Stanton Avenue station.
Q. You didn't have any warrant for the arrest of Arthur Smith, did you?
A. I don't know anything about it. I was not there when Arthur Smith was arrested.
Q. I say, you didn't have a warrant in your possession?
A. I didn't have any, no.
Q. And you don't know that anybody did?
A. No, I don't know.
Q. Did you at any time take anybody before a police magistrate to get a warrant for the arrest of either Smith, Jennings or Morgan?
A. We had a John Doe warrant.
Q. No. I say did you at any time take anybody before the magistrate?
A. No, sir.
Q. After you got these descriptions did you take anybody there?
A. No.
Q. Did you go before any magistrate and get any warrant to search any premises in regard to this property?
A. No, sir.
Q. None at all?
A. No.

Q. Now, calling your attention to on or about the 6th [fol. 88] day of June, 1948, were you present when Talbot Jennings was arrested?

A. Yes.

Q. Did you make that arrest?

A. Yes.

Q. Where was that made?

A. I believe it was 5303 Dearborn Street.

Q. I cannot hear you, Officer.

A. 5303 Dearborn.

Q. Chicago, Illinois?

A. Chicago, Illinois.

The Court: 53 What?

A. 5303 Dearborn.

Mr. Geter:

Q. About what time was that?

A. About six A. M. in the morning.

Q. Where did you make this arrest, what part of the premises?

A. I arrested—he was in the washroom, the bathroom of his flat on the second floor.

Q. And how did you get into this flat, Officer?

A. We were let in by a lady in the house.

Q. I mean did you——

A. We knocked on the front door and she asked who was there, and we told her it was police officers, and she asked us what we wanted and we told her, and she says, "Come on in."

Q. Who did you tell her was wanted?

[fol. 89] A. We told her we were looking for a fellow by the name of Jennings.

Q. Had you ever seen Jennings prior to that time?

A. No, just by description.

Q. After you got into this apartment, did you search the apartment?

A. We looked around, yes. We noticed the bathroom door closed. We opened it and he was dressing himself.

Q. You merely look around. Did you go into any of the dresser drawers?

A. No.

Q. How many people did you find in that apartment?

A. I believe there were three there.

Q. Did you find one lady in bed?

A. Yes, sir.

Q. What did you do in regard to her?

A. I didn't do anything in regard to her.

Q. Did you get any property, any personal property, in this apartment?

A. Personal property, no. We didn't take anything that I know of. We didn't take anything.

Q. You didn't get any personal property from there at all?

A. I didn't, no.

Q. Have you seen any personal property that was taken [fol. 90] from that apartment?

A. No.

Q. Now, you went back, you say. Was Jennings sitting in the bathroom or was he standing in there or what?

A. Standing. He was trying to get his clothes on, trying to dress.

Mr. Brown: Your Honor, I object to any further questioning of this witness. If Counsel is done searching now to get evidence to assist his defense, that is one thing.

Mr. Geter: You don't know what I am searching for.

Mr. Brown: Pardon me, do you mind? His witness is on the stand now. His witness has said he took nothing from that apartment, saw nothing taken from that apartment, and since then has seen nothing taken from that apartment. This is a motion to suppress. His witness has said that. I submit he was not making a search, but inquiry to assist him in the defense of the case. He has done what he needs to do, and his own witness has said he took nothing.

Mr. Geter: Permit me to disagree with you there, because whenever there is a motion to suppress evidence there has to be a thorough hearing on it, and this man isn't any more [fol. 91] my witness that he is his witness.

Mr. Brown: It is thorough now when his own witness says he took nothing. That is what you are trying to find out.

Mr. Geter: The Court is interested in knowing whether or not the constitutional rights of these men have been violated, and he is not going to say this is my witness, and because he says that, I am bound by that; that he didn't have a right to go in there.

Mr. Brown: I submit, you Honor, the petition here——

The Court: In the civil practice we have what is called Discovery Before Trial.

Mr. Geter: We are not trying to discover anything.

The Court: But under that or under the statute you have a right to call adverse witnesses. That as I understand, does not apply to criminal law. Mr. Brown is undoubtedly correct in his objection, but I am inclined to let him proceed.

Mr. Brown: I submit further, your Honor, that even in his own petition he does not state that anything was taken. He says something might have been taken.

[fol. 92] Mr. Geter: No, I say one gold ring was missing of Jennings.

The Court: Your objection is well taken, Mr. Brown, but I am inclined to let him proceed, within reason.

Mr. Geter: I am not searching to find out what they got from this man. The only thing I want to know is whether he had a right to go in there, or went in illegally.

Q. How many officers went in there with you?

A. There were three officers went in.

Q. Would you mind giving me their names, please?

A. Lieutenant Nestor and a Chicago police officer from Warren Avenue station. I couldn't give you his name.

Q. There is one more. You said three.

A. Myself.

Q. But there were just three officers altogether? Officer Hutchison was not with you?

A. No, he was not there.

Q. Did you have a warrant to search those premises?

A. No, we didn't.

Q. You didn't have a warrant for the arrest of Talbot Jennings, is that right?

A. No.

Mr. Geter: That is all.

[fol. 93] Cross examination.

By Mr. Brown:

Q. You had evidence that he was implicated in the crime charged in this indictment, didn't you?

A. Yes, and we were told where he could be found.

Mr. Brown: That is all.

(Witness excused.)

[fol. 94] I, Helen Kaylor, Official Shorthand Reporter of the Criminal Court of Cook County, Illinois, do hereby certify that as such Official Shorthand Reporter I reported in shorthand the proceedings had in the Motion to Suppress in the case of The People of the State of Illinois vs. Arthur Smith, Jr., Talbot Jennings and Edgar Donald Morgan, Indictment No. 48-1247, and thereafter caused to be transcribed into typewriting the foregoing portion of the proceedings, which I hereby certify is a true and correct transcript of that portion of the proceedings had at such hearing.

Helen Kaylor, Official Shorthand Reporter of The Criminal Court of Cook County.

Subscribed and sworn to before me this 5th day of November, A. D. 1949. Herman F. Post, Notary Public, Seal.

[fol. 95]

EXHIBIT C

AFFIDAVIT

In re: Talbot H. Jennings

To whom it may concern:

I, Roseanna Watson, age 28, residing at 5303 S. Dearborn, in the city of Chicago, Ill., in the State of Ill. do solemnly swear; that on or about June 9, 1948, I visited Talbot H. Jennings in the lockup of the Oak Park Police Station, in the Village of Oak Park, Illinois, in which said Talbert H. Jennings was a prisoner. Said prisoner, Talbot H. Jennings, bore livid bruises on his face and appeared in great pain and discomfort. Said prisoner, Talbot H. Jennings, had suffered brutal treatment about his face and body by the police officers of the Oak Park Police Force. I also solemnly swear; that said prisoner, Talbot H. Jennings, was arrested in my presence on June 6, 1948, at which time said Talbot H. Jennings, was struck in the face by an Oak Park Detective for asking me to notify his relatives to get him a lawyer.

Upon subpoena or deposition issued by a court of law, I will testify and again swear to the above statement in this affidavit.

(signed) Roseanna Watson

Subscribed and sworn to before me this — day of July A. D. 1949. B. Huff, Seal. My commission expires Jan. A. D. 51.

[fol. 96]

EXHIBIT D

AFFIDAVIT

In re: Talbot H. Jennings

To whom it may concern:

I, Evelyn Jackson, Age 23, residing at 5303 S. Dearborn, in the city of Chicago in the State of Ill. do solemnly swear; that on or about June 9, 1948, I visited Talbert H. Jennings in the lockup of the Oak Park Police Station, in the Village of Oak Park, Illinois, in which said Talbot H. Jennings was a prisoner. Said prisoner, Talbot H. Jennings, bore livid bruises on his face and appeared in great pain and discomfort. Said prisoner, Talbot H. Jennings, had suffered brutal treatment about his face and body by the police officers of the Oak Park Police Force. I also solemnly swear that said prisoner, Talbot H. Jennings, was arrested in my presence on June 6, 1948, at which time said Talbot H. Jennings was struck in the face by an Oak Park Detective because he wanted a lawyer.

Upon subpoena or deposition issued by a court of law, I will testify and again swear to the above statement on this affidavit.

(Signed) Evelyn Jackson

Subscribed and sworn to before me this 14th day of July A. D. 1949. B. Huff, Seal. My commission expires Jan. A. D. 1951.

[fol. 97]

EXHIBIT E

AFFIDAVIT

In re: Talbert H. Jennings

To whom it may concern:

I, James R. Marshall, age 27, residing at 816 E. 39 St. in the city of Chicago, in the State of Illinois, do solemnly swear; that I know it to be a fact that Talbert H. Jennings was in Detroit, Michigan on May 24, 1948.

On three occasions, October 4th, November 4th, and December 13th, 1948 I appeared in court to testify in behalf of Talbot H. Jennings. But each time the trial of Tal-

bot H. Jennings was delayed by continuances until when the trial of Talbot H. Jennings commenced I was unable to appear and testify. Upon subpoena or deposition issued by a court of law, I will testify and again swear to the above statement on this affidavit.

(signed) James R. Marshall

Subscribed and sworn to before me this 3 day of Aug. A. D. 1949. Norman Flaws, Seal. My commission expires Mar. 9th A. D. 1950.

[fol. 98]

EXHIBIT F

AFFIDAVIT

In re: Talbot H. Jennings

To whom it may concern:

I, Nettie Smith, age 26, residing at 4916 St. Lawrence in the city of Chicago in the State of Ill. do solemnly swear; that I know it to be a fact that Talbot H. Jennings left Chicago, Illinois on May 22, 1948 enroute to Detroit, Michigan.

On May 23, 1948, I talked with said Talbot H. Jennings by Long Distance Telephone in Detroit, Michigan from my home in Chicago, Ill.

I personally arranged lodging for said Talbot H. Jennings with a friend of mine Mr. Jimmy Hughes, residing at 1726 St. Antoine, St. in Detroit, Michigan before the aforesaid Talbot H. Jennings departed for Detroit, Michigan.

Upon subpoena or deposition issued by a court of law, I will testify and again swear to the statement in this affidavit.

(signed) Nettie Smith

Subscribed and sworn to before me this 23 day of July A. D. 1949. C. B. Waterford, Seal. My commission expires Aug. 15, 1949.

[fol. 99]

EXHIBIT G

AFFIDAVIT

In re: Talbert H. Jennings

To whom it may concern:

I, Arthur Smith, age 27, serving time in The Illinois State Penitentiary at Joliet, Illinois, Statesville Branch, under register number 28329 do solemnly swear; that on May 24, 1948 I drove two men to Oak Park, Illinois in my taxicab. These same two men allegedly robbed the Sidney L. Barr Jewelry Store, located at 1031 West Lake, Street, Oak Park Illinois, and Talbot H. Jennings was positively not one of the two men in my taxicab on May 24, 1948 whom I drove to Oak Park Illinois.

The above statements are true and correct to my own knowledge and I am willing to testify to same upon subpoena or deposition issued by a court of law.

(signed) Arthur Smith, affiant.

Subscribed and sworn to before me this 30 day of June A. D. 1949. John J. Broderick, Seal. My commission expires Dec. 17, 1950 A. D.

[fol. 100]

EXHIBIT H

THE PEOPLE OF THE STATE OF ILLINOIS

vs.

ARTHUR SMITH, JR., TALBOT JENNINGS AND EDGAR DONALD MORGAN

Before Judge Ashcraft and a Jury.
Indictment No. 48-1247.

Monday, January 3rd, 1949, 2:00 o'clock p.m.

Court met pursuant to recess.
Present: Mr. Brown, Mr. Phillips, Mr. Geter.

(And thereupon, the following proceedings were had in the presence and hearing of the jury, to-wit:)

Mr. Brown: Officer Piotter.

EDWARD M. PIOTTER, a witness called on behalf of the State, having been previously duly sworn, was examined and testified as follows:

Mr. Brown: All the witnesses have been sworn, haven't they?

The Court: This witness has been sworn.

[fol. 101] Direct Examination.

By Mr. Brown:

Q. Will you state your name, sir?
A. Edward M. Piotter.
Q. Will you spell your last name?
A. P-i-o-t-t-e-r.
Q. And your address?
A. 820 Belleforte Avenue, Oak Park, Illinois.
Q. And your occupation?
A. Police officer in the Village of Oak Park.
Q. How long have you been a police officer of the Village of Oak Park?
A. Eighteen and one-half years.
Q. Have you been associated with Sergeant Hutchison, and other police officers of the Oak Park Station, in the investigation of the robbery of the Barr Jewelry Store on May 24th, 1948?
A. Yes, sir.
Q. What was the first thing you did in connection with the investigation of that case?
A. Well, we were called to go to the robbery at 1031 Lake Street, the Barr Jewelry Store.
Q. When?
A. About 12:50, I believe it was.
[fol. 102] Q. Where were you at that time when you received that call?
A. Washington Boulevard and Elmwood Avenue.
Q. Were you standing on a street corner or what?
A. In a squad car.
Q. Was that squad car especially equipped?
A. Radio equipped.
Q. Is that a two-way radio?
A. Yes, sir.
Q. And that is where you got the call, did you?
A. Yes, sir.

Q. Will you state where you were again, now?
A. Elmwood and Washington Boulevard.
Q. Where is Elmwood with relation to Forest Avenue?
A. South and east.
Q. Elmwood?
A. Elmwood Avenue is east of Forest Avenue.
Q. How far?
A. About a half a mile.
Q. About a half a mile?
A. Yes, sir.
Q. And how far is Washington Boulevard south from Lake Street in Oak Park?
A. Four blocks.
[fol. 103] Q. And that is the intersection where you were at at about 12:50?
A. Yes, sir.
Q. And what did you do when you got the call?
A. Well, we proceeded to go to the robbery, and we entered the store. A squad had already been in there and released Mr. Barr, so we began our investigation. We made inquiries around the immediate vicinity to see if anybody had seen anything.
Q. Who was with you when you went there, by the way?
A. Sergeant Hutchison.
Q. Just the two of you in that squad?
A. Yes, sir.
Q. Who was driving?
A. I was.
Q. So when you got to the jewelry store, in connection with the first part of your investigation, did you or Hutchison talk to Barr?
A. Yes, sir.
Q. And then you did other things after that?
A. Yes, sir.
Q. All right, what was the next thing you did?
A. Well, we made inquiries around the neighborhood, and we learned that a cab had been seen in the vicinity.
Q. What did you do about that?
[fol. 104] A. We got a description of this cab, a 1930, blue Buick, with blue windows and white wall tires, and we were told that there was "Mc" something on the side. We then went to the License Bureau, where all of these cabs are licensed. We believed it to be a South Park jitney cab.

Mr. Geter: I didn't get that answer, Judge.

Mr. Brown: He said, "We believed it to be a South Side jitney cab," is that right?

The Witness: Yes, sir.

Mr. Brown:

Q. What license bureau did you go to?

A. 11th and State, the Cab License Bureau.

Q. In Chicago?

A. In Chicago, yes, sir.

Q. Go ahead. Then what did you do from then?

A. We couldn't get anywhere there, so we went out to the south side, where all of these cabs run along South Parkway and Indiana Avenue, and we looked around trying to locate a cab of this description; but we were unsuccessful in that. We went back to the Lincoln Park Police and got the cab detail, a couple of men in the cab detail, and gave them the description of the cab.

On the morning of the 26th, we got a call that they had [fol. 105] a cab of that description at the Stanton Avenue Station.

Q. Now, where is the Stanton Avenue Station?

A. I believe it is on 35th Street. I wouldn't be sure.

Q. Is it in Chicago?

A. In Chicago, the south side.

Q. It is one of the Chicago Police Stations, known as Stanton Avenue, is that right?

A. Yes, sir.

Q. And you got that call on May 26th. What did you do then?

A. We called the fellow from the gas station who had given us the description of the cab.

Q. What was his name?

A. Stewart.

Q. Is that the man who just walked out of the court room before you came in?

A. Yes, sir.

Q. All right.

A. We called him, and Sergeant Hutchison and myself and the gas station attendant went to the Stanton Avenue Station, where this gas station attendant identified the cab. They also had a man that was driving the cab, but he

couldn't identify him as the man driving it at that particular [fol. 106] day of the robbery.

Q. What was his name?

A. Marcus Williams.

Q. Did you talk to Marcus Williams then?

A. Yes, we did. And he told us that——

Mr. Geter: Just a minute. I object to that.

The Court: Objection sustained.

Mr. Brown:

Q. After talking to Marcus Williams and, as a result of talking to him, what did you do?

A. I stayed at the Stanton Avenue Station, but my partner, Sergeant Hutchison, and the Lincoln Park policemen went to a fellow's house by the name of——

Mr. Geter: Object to that, Judge.

The Court: Yes, unless you were there.

Mr. Brown:

Q. Did Hutchison leave you with the Lincoln Park policemen?

A. No, sir. He left me at the Station Avenue Station.

Q. I mean, did he leave you and go with the Lincoln Park police?

A. Yes, sir.

Q. How soon did he return?

A. I imagine an hour afterward, he returned.

Q. Did he have anyone with him?

A. Yes, sir, he did.

[fol. 107] Q. Who?

A. A man by the name of Arthur Smith.

Q. Do you see him in the court room?

A. Yes, sir.

Q. Point him out.

A. The second man with his arm on the table there (Indicating).

Q. That is the man behind Mr. Geter with his arm on the table?

A. Yes, sir.

Mr. Brown: Indicating, for the purpose of the record, the defendant Smith in this case.

Q. Now, when this Lincoln Park policeman and Sergeant Hutchison came back to Stanton Avenue with Smith, was the gas station man still there, Mr. Stewart?

A. Yes, sir.

Q. What was done, if anything, at that time?

A. He identified him as the man who was driving the cab on the day of the robbery.

Q. All right. What was the next thing you did in connection with this case after that?

A. We went to the Detective Bureau at 11th and State——

Q. (Interposing) What did you do there?

A. (Continuing) —with Arthur Smith. And we called Mr. Barr, who had been robbed, and we also called a colored [fol. 108] boy from the gas station that had also seen this particular cab.

Q. Did the colored boy from the gas station come somewhere where you were?

A. Well, I left 11th and State, and I picked up the colored boy and Mr. Barr and brought them to 11th and State.

Q. When they got to 11th and State, what, if anything, did they do in your presence?

A. Well, the colored boy——

Q. They or either of them.

A. The colored boy identified him as the man that had the cab.

Q. Was Smith there when he identified him?

A. Yes, sir.

Q. I mean, was he close enough so that he heard him say, "You are the man"?

A. Yes.

Q. Tell us what he said.

A. He said that was the man that he saw in the gas station on the day of the robbery.

Q. Had you or Hutchison, in your presence, searched Smith at the time at Stanton Avenue?

A. Yes. We asked him for some identification. He pulled out his wallet, and in his wallet he had a clipping of the [fol. 109] robbery.

Q. Did you speak to him about that?

A. Yes. We asked him why he was carrying the clipping of this particular robbery.

Mr. Geter: I am objecting to all of this, Judge.

Mr. Brown: Just a moment.

Mr. Geter: I am objecting to all of this on the ground that, number one, the arrest of Smith was illegal, and the search, naturally following it, was illegal.

Mr. Brown: I submit that has all been covered, your Honor, out of the presence of the jury.

Mr. Geter: I am still objecting to it.

The Court: The objection is overruled.

The Witness: A. He said he had a scrap book, and he was saving clippings of robberies.

Mr. Brown:

Q. What robbery was this he had the clipping of in his wallet?

A. The Barr Jewelry Store robbery.

Q. All right. Did you find anything else on his person?

A. He was wearing a ring that was identified by Mr. Barr as one of his rings.

Q. Just a moment. I show you People's Exhibit No. 6 for [fol. 110] identification and ask you if you ever saw that before.

A. Yes, sir.

Q. And where was the first time you saw that ring?

A. On Arthur Smith. He was wearing it at the Stanton Avenue Station.

Mr. Geter: I am objecting to all of this testimony on the same ground: that the arrest was illegal and the search was illegal.

The Court: The same ruling.

Mr. Brown:

Q. Now, then, after you had the second gas station man down at 11th and State, and Mr. Barr down there, was Smith asked anything about that ring, People's Exhibit No. 6 for identification?

A. Yes. We asked him——

Q. (Interposing) In the presence of Mr. Barr?

A. Yes. We asked him where he got it.

Q. What did he say?

A. He said he had gotten it from Morgan, I believe. He said Morgan had given him the ring.

Mr. Geter: I object to what he believes, Judge.

Mr. Brown:

Q. Is that your best recollection of what he said?

A. Yes, sir.

Q. What next did you do in connection with the investigation of this case?

[fol. 111] A. Then he went through the Bureau in Chicago, and about midnight that night we took him back to Oak Park.

Q. You took him back to Oak Park?

A. Yes, sir.

Q. Had you had him there before?

A. No, we haven't.

Q. Then you took him there for the first time?

A. We took him to Oak Park, yes, sir.

Q. What was the next thing you did in connection with this case?

A. We questioned him about the fellows that had been with him in this robbery, and he stated that he didn't know their names. He said he had just met them, and one of them was called Blackie and another one was called Blackie or Buddy. That was the only names he knew them by. But he told us if we went out to the south side, around 47th and Indiana, in there, he might be able to point these fellows out to us.

Mr. Geter: Of course, I am objecting to all of this as conversation that is attributed to Smith, Judge, on the ground that the arrest was illegal, and that it is——

The Court: On what ground? I didn't hear you.

[fol. 112] Mr. Geter: On the ground that the original arrest was illegal, and everything that followed was illegal.

The Court: That motion is overruled.

Mr. Brown:

Q. And what did you next do in connection with this investigation?

A. Well, we parked around there for a few hours and got back to the station about three o'clock in the morning, three-thirty, something like that. Then he told us that he knew a fellow by the name of Anderson whom Morgan may be living with on Maryland Avenue. So he said if we drove him out there he'd show us the room.

Q. Yes? What did you do next?

A. So we did. We drove him out there, and it was Room Twenty and a half.

Q. Where did you drive him to?

A. The New Drake Hotel. I believe it was in the 6300 block on Maryland Avenue.

Q. 6300 on Dante, did you say?

A. Maryland.

Q. And you said Room twenty what?

A. Twenty and one-half.

Q. And that is where you were supposed to find who?

A. That's where we were supposed to find Anderson and Morgan.

[fol. 113] The Court:

Q. What was that hotel?

A. The New Drake Hotel.

Mr. Brown:

Q. Did you go to that address?

A. Yes, sir. Sergeant Hutchison and a couple of Chicago policeman went in, and I stayed in the car with Smith.

Q. Then that's all you know. You stayed in the car while some Chicago police and Sergeant Hutchison went in, is that right?

A. Yes, sir.

Q. What did you next see? Did they come out of there?

A. No. There was nobody in there.

Q. I say, did they come out?

A. Yes, sir.

Q. Did they have anybody with them?

A. No, they didn't.

Q. Now, when was that?

A. That was about four o'clock the 29th of May.

Q. May 29th at four o'clock what? A.M. or P.M.?

A. A. M.

The Court:

Q. P. M., did you say?

A. A. M.

Q. It was in the morning?

A. Yes, sir, in the morning.

Mr. Brown:

Q. All right. What did you next do? You had Smith [fol. 114] with you, did you?

A. We had Smith with us, yes, sir.

Q. All right.

A. We come back to the station. That might have been four or five o'clock. We come back to the station, and we went home and got some sleep.

Q. All right. What did you next do?

A. We came back about five o'clock.

Q. Yes?

A. And we took a statement from Smith.

Q. What did you next do after that?

A. We went back to this hotel again and talked to the manager.

Q. Is that back to the Maryland Hotel?

A. Yes, sir.

Q. Did you take Smith with you?

The Court: The Maryland Hotel or the New Drake Hotel?

Mr. Brown: Pardon me, Judge, the New Drake Hotel.

The Witness: A. No, sir, we didn't take Smith with us.

Mr. Brown:

Q. You and Hutchison and who else? Anybody else?

A. No, sir. Hutchison and I and the manager went into the room.

[fol. 115] Q. I didn't hear what you just said.

A. Hutchison and myself and the manager of the hotel went into the room.

Q. Was there anybody there?

A. No, there was nobody there, but we looked under the mattress——

Q. (Interposing) Just a moment, please. Now, how long were you in the room at that time?

A. I imagine about fifteen minutes.

Q. After you left there, where did you go?

A. We went back to our station from there.

Q. And that was the morning of May 29th, is that right?

A. Yes, sir.

Q. What was the next thing you did in connection with this case?

A. In questioning various people, we learned that——

The Court:

Q. I'm sorry, I'm getting confused with these times. I thought it was four o'clock in the afternoon that you were at the New Drake Hotel first.

A. First; and then we went back there again.

Q. You went back the next morning?

A. We went back the next afternoon.

Q. That would be the 30th?

A. That evening.

Mr. Brown: No. Four in the morning and, then, the same afternoon. It's still the 29th.

[fol. 116] The Court: Oh, four in the morning, the first time?

Mr. Brown: Yes, the first time.

The Court: All right.

Mr. Brown:

Q. And the second time was? Let's get it straight.

A. The early evening.

Q. Still the 29th, however?

A. Yes, sir.

Q. Then you say you came back to the station. I asked you what you did next, and you said you are doing what? Go ahead.

A. We learned that Blackie——

Mr Geter: Object.

The Court: The objection is sustained.

Mr. Brown:

Q. I say, what did you do, not what you learned. What did you do next?

A. Well, we made a search for this fellow Blackie, and we were looking for him.

Q. You were looking for a man named Blackie?

A. Yes, sir.

Q. Where were you looking for him?

A. Well, he had moved from this Maryland address where he had been staying with Anderson.

Q. Yes?

A. And we found out that he was going——

[fol. 117] The Court: Not what you found out; just what you did.

The Witness: Well, later on—our investigation went over a couple of days.

Mr. Brown:

Q. All right, you are still looking for Blackie.
A. We are still looking for Blackie.
Q. Go ahead.
A. We went to an address at 4201 Ellis Avenue.
Q. When was that about?
A. That was the 5th of June.
Q. This is now June 5th?
A. June 5th.
Q. You say you went where?
A. 3201 Ellis Avenue.
Q. 3201?
A. 4201, I'm sorry.
Q. 4201 Ellis?
A. Yes?
Q. And what kind of building was that?
A. That's a large building with many rooms in it. It is a hotel.
Q. Has it got a name?
A. I don't believe so. No, it didn't have a name.
Q. Pardon me?
A. No, it didn't have a name.
Q. But it's large and it's a hotel?
[fol. 118] A. Yes, sir.
Q. What time did you go there?
A. About three-thirty in the afternoon.
Q. That would be 3:30 p. m.?
A. Yes, sir.
Q. All right, where did you go there?
A. We talked to the proprietor of that building, his wife and himself, and he informed us——

Mr. Geter: Object to what he informed you.
The Court: the objection is sustained.

Mr. Brown:

Q. After talking to him, what did you do?
A. We learned that——
Q. (Interposing) Not what you learned. Just what did

you do after you talked to him? We know you learn things every time you talk to people, but what did you do next?

A. We went to Room 400.

Q. Who was with you?

A. Sergent Hutchison.

Q. What did you do when you got there?

A. We got in Room 400, and we saw a radio that was also in the room at the Maryland address.

Mr. Geter: He saw what, Judge?

Mr. Brown: He saw a radio.

Q. You saw a radio which you had previously seen at the Maryland address?

A. Yes, sir.

[fol. 119] Q. In the twenty and one-half room?

A. Yes, sir.

Q. All right.

A. So we left the building, went out and sat in our car, parked about a quarter of a block away from the entrance, and about a half hour later a yellow cab pulled up and Anderson got out of the cab.

Q. All right. That is the Anderson whose name we have mentioned here several times?

A. Yes, sir.

Q. Do you know his first name now?

A. No, I don't, offhand.

Q. Would you know it if you heard it?

A. Yes, sir.

Q. Was it Fred Anderson?

A. Fred Anderson, yes, sir.

Q. Go ahead.

A. We drove up to the building and went up the front stairs and got him in the front hall and questioned him and took him out to our car, and Fred Anderson was wearing a watch and a ring at the time from the robbery.

Mr. Geter: I object to that, Judge. Just a moment. Fred Anderson isn't on trial here. He should be, but he isn't.

[fol. 120] Mr. Brown: Neither is the cab, your Honor.

The Court: Is that your only objection?

Mr. Geter: Yes, that's my only objection.

The Court: The objection is overruled.

Mr. Brown:

Q. I show you People's Exhibit No. 11 and ask you if you have ever seen these before. That is a group exhibit consisting of a ring and watch.

A. Yes, sir.

Q. Where did you first see those articles?

A. Fred Anderson was wearing both of them.

Mr. Brown: That is a Buloya watch, your Honor, with the sweep second hand and a small man's diamond ring.

Q. You say you talked to Anderson there; either you or Hutchison took those exhibits. Which one of you took them from Anderson?

A. Hutchison took them.

Q. That was downstairs, was it?

A. That was downstairs, yes, in the squad car.

Q. What did you next do?

A. We asked him where he got this jewelry.

Q. Yes?

A. And he said he had gotten——

Mr. Geter: Object to what he said.

[fol. 121] Mr. Brown:

Q. All right. Then what did you do?

A. Then he told us——

The Court: No, not what he told you; just what did you do.

The Witness: Then we proceeded to the Evans Hotel.

Mr. Brown:

Q. The Evans Hotel?

A. 6101 Evans Avenue.

The Court:

Q. What was that address?

A. 6101 Evans Avenue.

Mr. Brown:

Q. You said 6101 Evans, did you?

A. Evans Avenue.

Q. And that is in Chicago?

A. Yes, sir.

Q. Did Anderson go with you?

A. We left him in a squad car with a couple of Chicago policemen.

Q. Where did you go?

A. We went to the Evans Hotel.

Q. Then what did you do when you got there?

A. Anderson had given us a key.

Mr. Geter: Object to that, Judge. Anderson had given him.

Mr. Brown: He had given him a key. There's nothing wrong with that.

Mr. Geter: There's something wrong with it, too. There [fol. 122] is a whole lot wrong with it.

The Court: The objection is overruled.

The Witness: Anderson had given us a key to the hotel room where he said he was staying.

The Court: Not what he said.

Mr. Brown:

Q. He gave you the key. What was the room number?

A. I believe it was 412.

Q. That's your guess?

A. That's my guess.

Q. All right. Of what hotel?

A. The Evans Hotel.

Q. And when you got to the Evans Hotel, did you go to some room in that hotel?

A. Yes, sir. We went to the desk and informed them that we were——

The Court: Not what you informed them.

The Witness: We proceeded to go to this room, put the key in the door, and opened the door.

Mr. Brown:

Q. What did you find when you opened the door?

A. We found Morgan. Morgan was in bed with a girl friend and there was another girl friend sitting in the room.

Q. What time was that?

A. About five-thirty in the afternoon.

[fol. 123] Q. About five-thirty in the afternoon?

A. Yes, sir.

Mr. Geter: I am objecting to all of that testimony, Judge, on the ground that this search was illegal.

The Court: Your objection is overruled.

Mr. Geter: Everything that he testified to is prejudicial to Morgan.

The Court: The objection is overruled.

Mr. Brown:

Q. Where was Morgan at the time?

A. He was in bed.

Q. And what did you do in the room there?

A. We asked him to get out of bed, and we made a hasty search of the room, and on the dresser was a gun.

Q. On the dresser?

A. Yes, sir. And we also found a watch in the room.

Q. Just a moment. I show you People's Exhibit No. 1 for identification and ask you whether or not you ever saw that before?

A. Yes, sir. That's the gun that was on the desk, on the dresser, in the hotel room.

Q. Where Morgan was?

A. Where Morgan was sleeping.

Q. Who took it?

A. Hutchison picked it up off the dresser.

[fol. 124] Q. Is this the gun, as you see it now,—is that the gun that Hutchison took from that dresser?

A. It is the same gun of Spanish make. It is marked.

Q. Did you examine it at the time?

A. Yes, sir.

Q. Was it loaded or unloaded?

A. Yes, sir; five bullets.

Mr. Geter: Object to that, Judge. The best evidence, if it was loaded, would be the bullets or cartridges, whatever they are.

The Court: The objection is overruled.

Mr. Brown:

Q. And what next did you say you found there?

A. A watch and a ring.

Q. A watch and a ring?

A. Taken from the jewelry store.

Q. I show you People's Exhibit 7 and ask you if you ever saw those things before?

That is a group exhibit, you Honor, consisting of a watch and two rings.

A. Yes, sir. They were taken from Morgan.

Q. What part of Morgan were they taken from?

A. They were on the dresser, also.

Mr. Brown: Just so we will know what we are talking about, your Honor, this is a group exhibit consisting of a [fol. 125] Gruen Curvex watch, with a gold band, and a small ring, which is very similar in make to the band of the watch itself, and then a large man's ring, with what appears to be a white stone in the center and two red stones on either side.

Q. Did you find anything else in that room that you recall?

A. No, I don't recall.

Q. What did you do then?

A. We told him to get dressed, and we were going to take him into the station. So he says, "I may as well take all my clothes." He asked us if we'd pack his clothes for him and take that along in grips, which we did.

Q. You waited while he packed his suit?

A. His clothes.

Q. A suit case, that's what I mean.

A. Yes, a suit case.

Q. Where did you take him then?

A. We took him back to the Wabash Avenue Station where Anderson was sitting in a squad car in front of the station, and we took both of them to 11th and State.

Q. And that was police routine, wasn't it, since it was a Chicago arrest

[fol. 126] A. Yes, sir. That's a ruling we have to run them through the Bureau.

Q. You were Oak Park police in Chicago, and so you took them to the Detective Bureau in Chicago?

A. Yes, sir.

Q. About what time was that?

A. Oh, I imagine we got them down to the Bureau about six-thirty, seven o'clock.

Q. What did you do next?

A. We called Mr. Barr to come down.

Q. And what time did Mr. Barr get down there, do you recall, about?

A. No, I don't; but shortly after.

Q. What did you do next?

A. Well, Mr. Barr identified Morgan as the man who had robbed him.

Q. Did Mr. Barr, in your presence, look at these various exhibits of rings and watches at that time?

A. Yes, sir.

Q. What did you do next?

A. Then we brought him out to Oak Park, out to our station.

Q. About what time of the night or morning was that by the time you got all that all finished?

A. By the time we got through at the Bureau, and every-[fol. 127] thing, it was about one in the morning.

Q. Then you went to Oak Park, did you?

A. Yes.

Q. When you got to Oak Park, what did you do?

A. Hutchison took the statement from Anderson; then he took a statement from Morgan.

Q. Now, this is on the morning of June 6th?

A. The 6th.

Q. And you say he took a statement from Anderson?

A. Yes, sir.

Q. And then, later, a statement from Morgan?

A. From Morgan.

Q. Then what did you do?

A. About four o'clock in the morning, four-thirty in the morning, he told us that we might be able to pick up the third party to the robbery, whose name was a fellow by the name of Jennings.

Mr. Geter: I object to that, Judge.

The Court: On what grounds?

Mr. Geter: On the ground that Jennings wasn't there. He's telling about something that somebody told him about going out, what he could do; conversation.

Mr. Brown: His objection is well taken, your Honor; if you don't mind my saying so.

[fol. 128] The Court: There is no motion made. Does the State wish to withdraw the question?

Mr. Geter: I objected to the question, Judge.

The Court: The State has withdrawn the question.

Mr. Brown: Yes, I will withdraw the question, your Honor.

Q. After you finished the statement now from Morgan, did you have a talk with Morgan other than what he had put into the statement?

A. Yes, sir.

Q. All right. Then, pursuant to that talk that you had with him, what did you do, where did you go?

A. We went to 5303 South Dearborn Street.

Q. Did you say 5303 Dearborn?

A. South Dearborn, yes, sir.

Q. Is that in Chicago?

A. Yes, sir.

Q. And what kind of a dwelling place building was there or what was there?

A. It is a two-flat building.

Q. What did you do when you got there?

A. We knocked on the door, the front door, and a woman put her head out the window and says, "Just a minute." She came down and opened the door, and we went up there. We went up into the second floor apartment, and a couple of them went to the front of the house, and I went to the [fol. 129] back, and I seen a light——

Q. Who was with you, by the way?

A. Lieutenant Nester and Sergeant Thor.

Q. Go ahead.

A. I went to the back, and I seen a light in the room. I didn't know what kind of a room it was, but I opened that door, and it was a bath room, and Jennings was in there. putting his clothes on.

Q. What time was this?

A. It was almost six o'clock in the morning.

Mr. Geter: On what day was this?

Mr. Brown: We are to June 6th now, counsel.

The Witness: The 6th.

Mr. Brown:

Q. Did you talk to him?

A. Yes, sir.

Q. What did you say?

A. We asked him about the robbery. He also was wearing a ring from the robbery.

Q. I show you People's Exhibit No. 8, a small gold ring with a stone in the center which looks like a diamond to me, and ask you if you have ever seen that before?

A. Yes, sir.

The Court: Is that 8?

[fol. 130] Mr. Brown: Yes, your Honor.

The Witness: Jennings was wearing that when he was picked up.

Mr. Brown:

Q. At the time that you picked him up at this address that you are just describing here?

A. Yes, sir.

Q. Did you ask him anything about that?

A. Yes, we asked him about it.

Q. What did he say, do you remember?

A. I believe he said he bought the ring.

Mr. Geter: I object to what he believed.

The Court:

Q. Is that your best recollection?

A. That's my best recollection, that he purchased it.

Mr. Brown:

Q. Did he say anything about how he happened to be in the bath room?

A. No, he didn't. He didn't have an explanation for that.

Q. Were all his clothes in the bath room?

A. Yes, he had his trousers there and he was just putting his shorts on. He just about had his shorts on when I opened the door.

Q. What did you do next?

A. Well, we took him downstairs and put him into the squad car and took him to 11th and State, to the Bureau, to [fol. 131] run him through the Bureau.

Q. When you say "run him through the Bureau," that is the procedure of the Chicago Police Department, is it?

A. Yes, sir. They fingerprint him and take his picture.

Q. That is part of the routine of the police in Chicago?

A. They want a record of that.

Q. You just gave him to the Chicago Police to do what they usually do with any prisoner arrested in Chicago, is that it?

A. Yes, sir.

Q. All right. Then what did you do next?

A. We took him out to Oak Park.

Q. Do you recall about what time you got to Oak Park then?

A. About eight o'clock.

Q. 8:00 a.m.?

A. 8:00 a.m., the 6th.

Q. What did you do then?

A. We brought him up to Lieutenant Nester's office.

Q. Yes?

A. And Morgan was also in the office.

Q. All right.

A. Lieutenant Nester showed him a statement made by Morgan and let him read it.

Q. I show you People's Exhibit No. 15 and ask you if you [fol. 132] ever saw that before?

A. Yes, sir.

Q. Is that the statement that you just referred to?

A. That's the statement that he showed Jennings.

Q. So, at the time he showed it to him, was Jennings' signature on it at that time?

A. No, sir, it wasn't.

Q. And you say that Jennings then read this statement of Morgan's?

A. Yes, sir.

Q. And were you present when the signature of Jemings was affixed to it?

A. Yes, sir. He made a correction, I believe, and he said he'd sign it under one condition, that he make a correction in it, in the statement.

Q. All right. I ask you to look at the second page of this statement. Is there a correction there? Just yes or no.

A. Yes, sir.

Q. And is that correction made in ink?

A. Yes, sir.

Q. Is there a signature immediately under the correction?

A. Yes, sir.

Q. Whose signature?

A. Jennings' signature.

Q. Is that the correction, then, that he made on the second page?

A. Yes, sir.

Q. Then I show you the signatures on the three pages [fol. 133] under the signature of Morgan. Were those affixed in you presence?

A. Yes, sir.

Q. By whom?

A. By Jennings and Morgan.

Q. I say, was the signature of Jennings affixed in your presence at that time that you are talking about now?

A. Yes, sir, by Jennings.

Mr. Brown: May the record show that that is one of the two exhibits that I read to the jury, your Honor, a couple of days ago or a few days ago? That is just one of them that I read, 15.

Q. Then, after Jennings read that statement of Morgan's and affixed his signature to it, after making the correction, then what was the next thing you did in connection with this investigation?

A. We asked him if he cared to make a statement.

Q. Jennings?

A. Yes, sir.

Q. And what did he say?

A. He says, "Yes," he'd make one.

Q. All right. Then what was the next thing done in this case?

A. So we made a joint statement of Morgan and Jennings.

Q. When was that made then?

A. That was about six o'clock that evening.

[fol. 134] Q. Showing you People's Exhibit No. 12 in evidence, have you ever seen that before?

A. Yes, sir.

Q. And is that the statement just referred to as the joint statement which was made at six o'clock that evening?

A. Yes, sir.

Q. When you say "six o'clock," is that the time it started?

A. Yes, I believe so.

Q. That was June 6th, the date it bears, is that right?

A. Yes, sir.

Q. Then what was the next thing you did in connection with this case?

A. Mr. Barr was called.

Q. I am assuming now that every once in a while you had some time to sleep, did you?

A. Yes; from about eight o'clock that morning, nine o'clock that morning, we slept until about four.

Q. When I say, "the next thing you did in this case," I am excluding the times you went home to sleep. I am talking about the times you were actively engaged in this investigation.

A. Yes, sir.

Q. What was the next thing you did in regard to this joint statement?

A. Called Mr. Barr to identify these men.

[fol. 135] Q. Pardon me?

A. To try to identify these men.

Q. Was Mr. Barr present during the joint statement?

A. Yes, sir.

Mr. Geter: Judge, I am going to object to Mr. Brown leading the witness now.

Mr. Witness: Mr. Barr was present during the taking of the joint statement.

Mr. Geter: Pardon me. Judge, first he has taken the statement, identified them, and now he says he called Mr. Barr to come to try to identify the defendants, and then he comes back with the leading question that I objected to. I would like for the Court to rule on it.

The Court: Objection sustained.

Mr. Brown:

Q. What was the next thing you did after the joint statement? That was the night of June 6th.

A. The 6th, about six p.m. After the joint statement—I don't recall.

Q. I mean, after it was all over, not at the beginning of it. How long did it take, by the way?

A. To take this joint statement?

Q. Yes.

A. Oh, about two hours.

[fol. 136] Q. Then, after it was all over, what was the next thing you did, then, in your investigation?

A. Well, we had the last man in the robbery who was identified.

Q. What last man?

A. By Mr. Barr.

Q. What last man?

A. Jennings.

Q. What was the next thing you did?

A. I believe I went home rather early that night because we were going to Cleveland the next day.

Q. What time did you get to the station the next day?

A. About nine o'clock in the morning.

Q. Who was there at the station at nine o'clock in the morning?

A. I met Sergeant Hutchison.

Q. You met Hutchison?

A. Yes, sir.

Q. What did you do?

A. We took Morgan in Hutchison's car and drove to the Federal Building in the Loop.

Q. Did anybody go with you?

A. Mr. Barr, the jeweler.

Q. Then you met Hutchison and Barr, is that right?

A. We met Mr. Barr, yes, sir.

Q. So that you and Hutchison and Barr and Morgan then [fol. 137] left the Oak Park Station, and where did you go?

A. We went to the Federal Building, the F.B.I., in Chicago.

Q. Who did you see down there?

A. An agent by the name of Mr. Dunne.

Q. How long did you remain in Mr. Dunne's office?

A. Possibly an hour.

Q. And then, when you left Dunne's office, what did you do next?

A. We drove with Morgan to Cleveland, where he told us he'd try and help us recover the jewelry that they sold there.

Mr. Geter: I move that—I am objecting to all that testimony, Judge.

Mr. Brown:

Q. When had he told you?

The Court: Just a minute. There is an objection. What is the objection?

Mr. Geter: I am objecting because he was under duress during the time that he made this trip to Cleveland.

The Court: The objection is overruled.

The Witness: A. He told us that on the sixth day, that he'd go to Cleveland with us and help us recover it.

[fol. 138] Mr. Brown:

Q. On the 6th day, he told you that he'd go to Cleveland and help you?

A. Help us recover the jewelry.

Q. So you left on the morning of the 7th?

A. Yes, we left on the morning of the 7th.

Q. Did you arrive at Cleveland?

A. Yes, sir.

Q. About what time?

A. About ten o'clock that night, the 7th.

Q. What did you do with Morgan when you got to Cleveland?

A. We locked him in the County Jail.

Q. And as whose prisoner?

A. As our prisoner. We locked him there as our prisoner, just transit.

Q. How long did he stay there?

A. Well, he was there from that Monday until, I believe, we went back on Thursday. We came back to Oak Park the next Thursday.

Q. The next Thursday?

A. Yes.

Q. What day was this, do you remember now, the 7th?

A. Monday.

Q. It was on a Monday?

A. Yes.

Q. And you didn't leave Cleveland to come back until the Thursday of that same week?

A. The following Thursday.

[fol. 139] Q. Now, in the meantime, while you were in Cleveland, did you see any F.B.I. men there?

A. Yes, sir. We worked with two of the F.B.I. agents there.

Q. What were their names, if you recall?

A. Corbett was one of them.

Q. Pardon me?

A. A gentleman by the name of Corbett was one of the agents. I don't recall the other agent's name.

Q. Would you recall it if you heard it?

A. Yes, sir.

Q. I'll make a guess at it. Was it something like Blackthorn, or something like that?

A. Blackhorn.

Q. Blackhorn?

A. Yes; or Blankehorn.

Q. Did Morgan talk to them in your presence?

A. Yes, sir.

Q. Did you see any Cleveland people at the station in Morgan's presence?

A. Yes, sir.

Q. Who?

A. The first fellow I saw, the first fellow that was picked up in regards to this jewelry that was sold there, was a fellow by the name of Mike.

Mr. Geter: Judge, I object to that and move that it be [fol. 140] stricken. It is not responsive.

The Court: Objection overruled.

Mr. Brown:

Q. Did you see him in the presence of Morgan?

A. Yes, sir.

Q. What did Morgan say or do at that time?

A. Morgan identified him as the contact man, the man he contacted to dispose of the jewelry.

Q. Did you see any other Cleveland citizen?

A. Yes. Then there was another gentleman picked up. I don't recall his name at all. But he, in turn, told us about——

Q. (Interposing) Did you see him in the presence of Morgan?

A. Yes, sir.

Q. What did he say to you in the presence of Morgan?

A. Morgan also identified him as the man that Mike had talked to for him.

Q. What, if anything, did he say then in the presence of Morgan, if anything?

A. He said that he——

Mr. Geter: Just a minute. I object to that, Judge. It is not the best evidence, what somebody said in the presence of

the defendant. That wouldn't make it good evidence. Bring that somebody down here and let him testify.

[fol. 141] The Court: The objection is overruled.

Mr. Brown:

Q. Proceed.

A. He said that the man who bought the jewelry was a man by the name of Fein.

Q. All right. Did you eventually have Fein brought in the presence of Morgan?

A. Fein was brought in, yes, sir, in the presence of Morgan.

Q. Later on, did you go to the Federal Court House there?

A. Yes, sir.

Q. And in whose presence were you there?

A. The District Attorney, I believe it was.

Q. Well, if you can't think of his name, just tell us what he was.

A. He was the prosecuting attorney, the Federal prosecutor.

Q. Was Morgan there?

A. Yes, sir.

Q. Was there a hearing there?

A. Yes, sir.

Q. Did Morgan testify under oath there?

A. Yes, sir.

Q. Was Mr. Fein present at the time?

A. Yes, sir.

Q. Will you tell us what, if anything, you heard Morgan say in this hearing in the Federal Building before a United [fol. 142] States Commissioner?

A. He testified as to how he made his contact. First, he rode around in a cab and the cab driver told him to see a fellow by the name of Mike. He finally made contact with this Mike and through Mike, Mike introduced him to this other man there in Cleveland, and through him they contacted Fein, and the deal was finally arranged in a clothing store.

Q. What deal?

A. To buy this jewelry off of Morgan.

Q. What jewelry?

A. From the Barr Jewelry Store robbery.

Mr. Geter: Judge, I am going to object to all of this testimony. Number one, if he is going to tell what Morgan said, let him tell it. I object to Mr. Brown leading the witness. What did he say? What jewelry? What time?

Mr. Brown: Those sound like questions to me, your Honor.

Mr. Geter: They are questions, but you are telling him the answer.

The Court:

Q. Just state as nearly as you can remember what Morgan testified.

Mr. Brown: I have more or less finished with this.

[fol. 143] Mr. Geter: Judge, he's finished now, Judge.

The Court: I thought you were objecting to anything further. What is the objection?

Mr. Geter: My objection was against him leading. Of course, before he finished answering, he was telling him, or trying to tell him.

Mr. Brown: His description of my leading were all questions. What jewelry? What? Why? They were all questions.

Mr. Geter: He might have been testifying about some other jewelry.

Mr. Brown: I said, "What jewelry?" and he said, "The Barr jewelry robbery."

The Court: The objection is overruled.

Mr. Brown:

Q. Now, then, after this hearing before this Federal Commissioner, what did you do next?

Mr. Geter: I object to any further questions along the line of what they did when they were in Cleveland.

The Court: The objection is overruled.

The Witness:

A. We drove back to Oak Park. We completed our business there in Cleveland.

Mr. Brown:

Q. Did you take Morgan back with you?

A. Yes, sir.

Q. Now, while you were in Cleveland, did you go any-
[fol. 144] place else in connection with this Barr jewelry robbery, other than what you have already testified to?

Mr. Geter: I object to that question: anything in regard to the trip to Cleveland.

The Court: Will you read the question, please?

(Question read.)

The Court: He may answer.

The Witness:

A. No, I didn't. I stayed at the Police Department. Sergeant Hutchison went to——

The Court: Not unless you know.

Q. You weren't with him, were you?
A. No, I wasn't with him.

Mr. Brown:

Q. That's right. I just found out. Hutchison went to places while you were not along, is that right?
A. Yes, sir. I had various people to watch at the station, and I stayed there.

Mr. Brown: You may cross examine.

Cross-examination.

By Mr. Geter:

Q. Officer Piotter, I believe you said that you made the arrest of Smith on May 26th. Is that the correct date?
[fol. 145] A. May 28th.
Q. Where is the first place that you saw Smith?
A. The first place I saw Smith was the Stanton Avenue Police Station.
Q. Who was there at that time?
A. Two Lincoln Park Police, Sergeant Hutchison and myself.
Q. Was this gas station attendant man there at the time?
A. Yes, sir.
Q. How long did you stay at the Stanton Avenue Police Station with Smith?

A. Just a short time. About a half hour.

Q. And, then, you took him to the Bureau, is that right?

A. Took him to 11th and State, yes, sir.

Q. Did you see Mr. Barr at 11th and State?

A. Yes, sir.

Q. That same day, the 28th?

A. Yes, sir.

Q. Were you there when he said that Smith looked like the man that had tied him up?

A. He made a remark about his eyes looking like it. He made a remark about his eyes looking similar to the man that held him up.

Q. His eyes looked similar to the man that had tied [fol. 146] him up?

A. Yes, sir.

Q. You say that when you first saw Mr. Barr at his jewelry store on the day of this supposed robbery, you were there with Officer Hutchison, weren't you?

A. The day of the robbery?

Q. Yes.

A. Yes, sir, I was there.

Q. Did you hear Mr. Barr describe the man who had tied him up that day?

A. We got a description of him, yes.

Q. Did he tell you at that time that the man was wearing dark glasses?

A. Part of the time; and that he had taken them off.

Q. Well, what part of the time wasn't he wearing dark glasses?

A. I don't recall whether it was the beginning of the robbery or at the end.

Q. But he took them off, so, therefore, he could say that this man's eyes looked like the other man, is that right?

Mr. Brown: I object, your Honor, to the form of the question.

The Court: The objection is sustained.

Mr. Geter:

Q. Was there anything else that Mr. Barr said besides [fol. 147] that he looked like him through the eyes?

A. No, sir, not in my presence. I think that was all that I heard him say.

Q. By the way, did you at that time have Marcus Williams at the station there?

A. Marcus Williams was at the Stanton Avenue Station.

Q. I mean, after you finished with him over there and the man said he wasn't the man, did you let him go home?

A. I believe so.

Q. And do you remember ever seeing him after that?

A. No, I don't.

Q. You never saw him in Oak Park at all, is that right?

A. No, sir.

Q. So far as you know, he has never been out there?

A. No, sir.

Q. You said something about Smith showing you a clipping of that robbery. Did he voluntarily take out his wallet and tell you here is a clipping that he had of this robbery?

A. He was showing me his identification, and he didn't have anything else there to obstruct the view, and I asked him what the paper was that he had in there. He took it out, and I saw that it was a clipping of the robbery.

[fol. 148] Q. He took it out and showed you that he was well informed of the robbery?

A. Yes, sir.

Q. Did he give you that paper?

A. No, I put it back in his wallet.

Q. You gave it back to him?

A. Yes, sir.

Q. So far as you know, he still has it?

A. No, I don't believe so. When we searched him at the station all of that is taken away, and if he wants it for evidence, I believe we'd keep it.

Q. Did you ever see that clipping after that?

A. No, I never saw it after that. No.

Q. You took Smith to the Oak Park Police Station on the night of the 28th after you had been to the Bureau, is that right?

A. Yes, sir.

Q. Did you see anybody hit or strike Smith?

A. No, sir.

Q. At no time?

A. No, sir.

Q. And everything that he did was free and voluntary? As soon as you arrested him, he told you that he wanted to do it?

A. Shortly afterwards, he told us that he might be able to point out the fellows that done it on the south side.

[fol. 149] Q. He was going to help you solve the case, in other words?

A. That's right.

Q. And if he says you hit him in the mouth and cut your fist, he wouldn't be telling the truth, would he?

A. He wouldn't be telling the truth, no.

Q. You never did hit him, did you?

A. No.

Q. Did you ever hear any hollering or noise around the station as anybody else might have been hitting him?

A. No, sir.

Q. They were just arrested and they were brought in and asked a few routine questions?

A. They were questioned, yes, sir.

Q. I see. Now, this statement here, People's Exhibit 15. When was that taken? When was it started?

A. This was taken June 6th. It was started, I would say, about two o'clock in the morning.

Q. This is the morning of June 6th?

A. June 6th.

Q. This is the statement that you said that Morgan made; is that right?

A. Yes, sir.

Q. And then, the following morning, they let Jennings see it, the morning of the—I mean, later on in the morning? It was finished about four-thirty in the morning, is that right?

A. Yes, sir.

[fol. 150] Q. And was Morgan given any kind of inducement to make that statement?

A. No, sir.

Q. You told him, at least somebody in your presence told him, that he could have a lawyer before he made the statement is that right?

A. Yes, sir.

Q. And you also told him that it might be used against him if he did make it?

A. Yes, sir.

Q. And he said he was going to make it anyway, is that right?

A. Yes, sir.

Q. And if Morgan said that you stepped on his foot, or anybody stepped on his foot and mashed his toes, and did anything to him in a brutal way, he wouldn't be telling the truth, would he?

A. No, sir, he wouldn't.

Q. This paper now is in the same condition as it was at the time that these signatures were affixed on here? You looked at it, I believe, Do you want to see it again?

A. No, sir.

Q. How about those little red marks up there, "Copy"? Was that on there when the thing was signed?

[fol. 151] A. No, sir.

Q. And you saw Morgan sign each one of these papers?

A. Yes, sir.

Q. Were you present when Morgan was asked to make another statement?

A. Yes, sir.

Q. And who asked him to do that?

A. Lieutenant Nester.

Q. That was later on the same day after this one was taken, isn't that right?

A. After that one was taken, we went out and picked Jennings up and brought him in about eight o'clock. Then he was shown this statement that Morgan made.

Q. Then he signed it, didn't he?

A. Jennings signed his statement.

Q. Yes?

A. And he also made a joint statement?

Q. He signed this one free and voluntarily, though, didn't he?

A. Yes, sir; after making the correction.

Q. Do you know who made this correction on here?

A. I believe the lieutenant did, Lieutenant Nester. It's not my writing.

Q. Were you present when the correction was made?

It says here, "Exception by Jennings. He took ring." [fol. 152] That appears to be the correction?

A. Yes, sir.

Q. And then, of course, were you present when Jennings signed right under that?

A. Yes, sir.

Q. And, then, when he put on his signature?

A. Yes, sir.

Q. By the way, what time did Jennings come into the station that morning?

A. About eight o'clock.

Q. Do you know where he came from?

A. Where Jennings came from?

Q. Yes, sir.

A. We brought him in from 11th and State.

Q. Do you know whether he could have been brought in from River Forest?

A. No, sir.

Mr. Brown: I object, your Honor, at this time to the speculation.

The Court: The objection is sustained.

Mr. Geter:

Q. You don't know, then, where he was brought in from? You just believe that he was brought in from 11th and State?

A. No, sir. I know where he was brought from.

Q. You know now that he was brought in from 11th [fol. 153] and State?

A. Yes, sir.

Q. Who brought him into the station?

A. I did.

Q. You did?

A. Yes, sir.

The Court: Mr. Geter, will you come over here, and Mr. Brown?

(Whereupon, a discussion was had between counsel and the Court outside the hearing of the jury and the Court Reporter, after which the following proceedings were had:)

The Court: We will adjourn until tomorrow morning at ten o'clock.

(Whereupon an adjournment was taken to ten o'clock a.m. of the following day, Tuesday, January 4th, 1949.)

[fol. 154] Tuesday, January 4th, 1949, 10:00 o'clock a.m.

Court met pursuant to adjournment.

Present: Mr. Brown, Mr. Phillips, Mr. Geter.
The Court: Bring in the jury.
Mr. Geter: May I proceed?
The Court: Proceed.

EDWARD M. PIOTTER, resumed the stand and testified further as follows:

Cross examination (Continued).

By Mr. Geter:

Q. Mr. Piotter, you testified, I believe, yesterday on direct examination that you received a call on May 24th about 12:50, is that correct, sir?
A. Approximately about 12:50.
Q. About this robbery?
A. Yes, sir.
Q. And then you proceeded to go *go* 1031 West Lake
[fol. 155] Street, Mr. Barr's jewelry store, is that correct?
A. Yes, sir.
Q. And I believe you also testified that some other officers had been there prior to the time that you had gotten there?
A. Yes, sir.
Q. Do you know who they were?
A. Well, there was Officer Jirsa who was in there.
Q. Then would you say that you arrived at the jewelry shop about one p.m. on that day?
A. No; a couple of minutes after we received the call.
Q. When you arrived there, what was the first thing that attracted your attention?
A. Well, a broken counter, and the jewelry boxes strewn about the place, the upset condition of the store.
Q. Did you see Mr. Barr at that time?
A. Yes, sir, I did.
Q. Where was he?
A. He was in the store at that time.
Q. I mean, whereabouts in the store?
A. In his office, when we first saw him.
Q. Where is that?
A. He offices right off the store.

[fol. 156] Q. What was his appearance? Was he dressed fully or what did he have on?

A. He was dressed. I don't know whether he had his suit coat on or not. I couldn't be sure. But he was very nervous.

Q. Did he have anything over his eyes?

A. No, not at that time.

Q. Did he have anything over his mouth?

A. No, sir.

Q. You and Sergeant Hutchison arrived there at the same time, didn't you?

A. Yes, sir.

Q. I believe you said that two days later, the 28th, you had an occasion to go to the Stanton Avenue Police Station in Chicago?

A. On the 28th? We went to the Stanton Avenue Station in Chicago four days later.

Q. Yes. The 28th.

A. That's right.

Q. And when you arrived there, you found a man, did you?

A. Yes, sir.

Q. A colored man?

A. Yes, sir.

Q. And outside you saw this taxi cab?

A. Yes, sir.

Q. Did you bring this attendant with you, or did you call him, or how did he get there?

[fol. 157] A. No, we drove him out to the Stanton Avenue Station.

Q. At the same time you went you took him?

A. Yes, sir.

Q. Then he looked this fellow over and said that wasn't the man, is that right?

A. Yes, sir.

Q. That's the man, I believe, by the name of Marcus Williams?

A. Yes, sir.

Q. And Marcus Williams was locked up at that time in the station?

A. No, sir. I stayed there with Marcus Williams.

Q. How long had you been there before you saw Arthur Smith?

A. Oh, I imagine I was there an hour before Arthur Smith came in.

Q. By the way, about what time would you say that was?

A. About one o'clock in the afternoon.

Q. One o'clock on the afternoon of May 28th?

A. Yes, sir.

Q. Then, after this, there were no other men in there, there was no line up of men, was there, for anybody to make any identification?

[fol. 158] A. Just police officers.

Q. But there were no other prisoners? I mean, you didn't stand him in line and tell the attendant to pick him out, did you?

A. No, sir, there were colored police officers there and Marcus Williams.

Q. Now, after this identification was made, what did you do, if anything, with Smith?

A. We took Smith to the Bureau at 11th and State.

Q. Did you take Marcus Williams with you, also?

A. Yes, we did.

Q. Then you stayed down at the Bureau for several hours, is that right?

A. Yes. We took them down to the Bureau, and we went to the south side looking for another man, and we come back, and left the Bureau around twelve-thirty.

Q. Twelve-thirty on the morning of the 29th?

A. Yes, sir.

Q. By the way, Mr. Barr was at the station, also, wasn't he, at Stanton Avenue?

A. No, sir.

Q. But he did come to 11th Street while Smith was there, is that right?

A. Yes, sir.

Q. What did you do with Smith about twelve-thirty, [fol. 159] a. m.?

A. Drove him out to Oak Park.

Q. And after you got to Oak Park, what did you do with him?

A. We questioned him, and then we took some statements. We took a statement from Marcus Williams. And, then, Smith told us that if we drove him to the south side he might be able to point out Blackie.

Q. I mean, you took statements from Marcus Williams

and Smith at that time, from twelve-thirty up until what time?

A. We took a statement from Marcus Williams.

Q. And you took one from Smith, also, didn't you?

A. And we took one from Smith, and we went out to the south side.

Q. What time did you finish taking the statement from Smith.

A. I take that back. We didn't take a statement from Smith at that time.

Q. You didn't take a statement?

A. No, sir.

Q. Did you say you brought Smith to the south side later?

A. Yes, sir.

Q. Between the time you took him into the Oak Park Station and the time you left for the south side, what was [fol. 160] Smith doing, if you know?

A. He was sitting in the sergeant's office.

Q. Did you, or anybody, take him downstairs to the lockup?

A. No, sir, not at that time.

Q. Did you see anybody strike Smith during those hours you were there?

A. No, sir.

Q. Did you strike him yourself?

A. No, sir.

Q. And to your best recollection, you say he sat in the office until the time you got ready to come south, is that right?

A. Yes, sir.

Q. Did Smith ask to be brought south or did you bring him?

A. Yes, sir, he volunteered, and he said he could probably help us locate a fellow by the name of Blackie.

Q. And he wanted you to start right away, at four-thirty in the morning?

A. No. That was earlier than that. It was about one-thirty.

Q. But you didn't have time to leave until about four-thirty?

A. No, we left about one-thirty.

[fol. 161] Q. You left for the south side at one-thirty?

A. Yes, sir.

Q. How long did you stay on the south side?

A. Oh, about three, three-thirty, four in the morning, something like that.

Q. Smith was with you all this time?

A. Yes, sir.

Q. Who else was with you?

A. On the south side?

Q. Yes, sir.

A. Sergeant Hutchison and Captain Koerber.

Q. Then, after you left the south side, where did you go about four-thirty?

A. Back to the station.

Q. What did you do with Smith?

A. He sat in the sergeant's office.

Q. How long did he stay in there after you got back?

A. Not very long. When we got back, he said that he could possibly find Blackie living with a boy by the name of Anderson, 6354 Maryland Avenue.

Q. He didn't tell you that while you were on the south side. He told you that after you got back?

A. After we got back.

Q. What did you do, then, after he told you that?

A. We drove out there.

[fol. 162] Q. Came on back to the south side again?

A. We went back to the Maryland address, yes, sir.

Q. Did he give you any reason for not telling you about this fellow when you were already out there?

A. No, he didn't.

Q. And, then, you went back to the south side on the early morning of the 29th. How long did you stay there? That's the second time you came out, is it?

A. That's the second time we went back that morning, yes, sir.

Q. Now, you took him back to Oak Park and he told you something about some fellow named Anderson?

A. Yes, sir.

Q. And, then, you came on back to the south side. How long did you stay out there on the morning of the 29th?

A. It was about five-thirty, six o'clock in the morning, when we got out to Maryland Avenue.

Q. How long did you stay there?

A. Oh, I don't believe it took us over thirty, forty minutes to finish our business.

Q. But you didn't find what you were looking for, is that right?

A. Yes, sir.

Q. By the way, had you been doing any eating or having [fol. 163] any food of any kind up to that time?

A. Were we doing any eating?

Q. Yes. You, Officer, or Sergeant Hutchison,

A. I suppose we grabbed a cup of coffee in between.

Q. Did you have any dinner on the 28th, the evening of the 28th? Did you have any food at all?

A. Yes. We stopped at a restaurant on the south side.

Q. So you stopped to feed yourself and Smith, is that right.

A. Yes, I believe Smith was with us.

Q. Don't you know whether he was or not?

A. No, I couldn't be sure about our eating times.

Q. You brought Smith back to the Oak Park Station again after five-thirty of the morning of the 29th. What did you do with Smith?

A. Took a statement from him at that time.

Q. And as soon as you got back to the station, you started taking a statement, is that right?

A. Yes, sir.

Q. How long did it take you to take that statement?

A. A couple of hours.

Q. That was around nine o'clock then, perhaps, when you were finished?

A. Yes, sir.

[fol. 164] Q. Then what did you do with Smith?

A. We turned him over to the lock-up keeper and he was locked up.

Q. The lock-up keeper locked him up down in the basement of the Oak Park Station?

A. Yes, sir.

Q. And how long did Smith stay down there then?

A. I don't recall how long he stayed down there. We went home and slept and came back around five o'clock.

Q. I mean, when did you see Smith next?

The Court:

Q. Is that five o'clock in the afternoon?

A. Yes, sir.

Mr. Geter:

Q. When did you see Smith after that, after he was locked up around nine o'clock that morning?

A. I don't recall.

Q. Well, was it one day?

A. I couldn't say.

Q. You don't remember?

A. No, sir.

Q. Did you, at any time, take Smith to court?

A. He had a hearing, but it was postponed.

Q. When did you have this hearing that was postponed?

A. The 12th of June.

The Court:

Q. Is that the first hearing?

[fol. 165] A. That was the first hearing, I believe.

Mr. Geter:

Q. When did you first take him to court, I think the question was?

A. We only have court every Tuesday and Friday. He would have had a hearing the closest day to that from the time he was picked up. I believe the first one was continued, and then we were in Cleveland, so it was held over until we got back.

Q. He wasn't taken into court then. At that time it was continued, was he taken into court then?

A. Yes, we took him into court.

Q. What date was that?

A. The 22nd of June he was taken into court on a hearing.

Q. You don't understand what I am talking about. When was he first taken into the court room?

A. I don't recall the exact date but he had a hearing the first day after he was picked up.

Mr. Brown: May 30th came in there, your Honor, which is a holiday, Decoration Day.

Mr. Geter: Just a minute, Mr. Brown, let him tell. He knows when he took him to court. I object to him making any remarks.

Mr. Brown: I have an objection here, too, but I'm not making it.

[fol. 166] The Court: Proceed. He says he doesn't know.

Mr. Geter:

Q. Well, when you answered that you took him on June 12th, what did you mean by that, Mr. Piotter?

A. I thought it was June 12th that he had a hearing?

Q. How's that?

A. I thought he had a hearing coming up June 12th. I may be wrong.

Q. You have been with Smith and Sergeant Hutchison on these investigations, and you went to court with him, didn't you?

A. Yes, sir.

Q. Did you take Marcus Williams to court?

A. No, sir.

Mr. Brown: Object as being immaterial, your Honor.

The Court: The objection is sustained.

Mr. Geter:

Q. Calling your attention to the 5th of June, about three-thirty in the afternoon, do you know where you were?

A. The 5th of June at three-thirty in the afternoon?

Q. About three-thirty.

A. Yes. 4201 Ellis Avenue.

Q. And you stayed over there how long at that time?

A. Oh, at that particular address?

Q. Yes.

A. Possibly an hour and one-half.

[fol. 167] Q. I believe you testified that at that time you got certain jewelry from one Fred Anderson, is that right?

A. Yes, sir.

Q. And did you take this jewelry from him?

A. No. Sergeant Hutchison took it.

Q. He turned it over to Sergeant Hutchison?

A. Yes, sir.

Q. And then you went to 6101 Evans, is that right?

A. Yes, sir.

Q. About what time did you get there?

A. About five-thirty.

Q. I believe you said you had a key that you obtained from Anderson?

A. Yes, sir.

Q. And you took that key and went into the room?

A. Yes, sir.

Q. You went into this room, and when you got in there you saw Morgan?

A. Yes, sir.

Q. And two young ladies, is that correct?

A. Yes, sir.

Q. Now, what did you do, if anything, after you got into this room?

A. I told Morgan to get out of the bed.

[fol. 168] Q. That's all you did?

A. Yes. I watched him.

Q. What did Sergeant Hutchison do? He was with you.

A. He looked the room over.

Q. By "looking the room over," what do you mean by that?

A. He wanted to make a survey of the room as rapidly as possible.

Q. Did he go into any of these dresser drawers?

A. He may have opened a couple of drawers.

Q. He went under the mattress, also, didn't he?

A. I don't recall if he did or not.

Q. You were in there and you observed that when you left the room was upside down, topsy-turvy, is that right?

A. No, sir.

Q. That isn't right?

A. No, sir.

Q. When you got in there, you saw People's Exhibit 1 marked for identification?

A. Yes, sir.

Q. Tell the jury where you saw that.

A. I didn't see it. Sergeant Hutchison picked that up.

Q. You didn't see it. You don't know where it was, then, in the room, do you?

A. All I know is where he told me he found it.

Q. He told you. You didn't see it?

[fol. 169] A. No, sir; only that he showed it to me later.

Q. And if it had been in the dresser drawer, or under some mattress, or something else, you wouldn't know anything about that, would you?

A. No, sir.

Q. Will you examine that People's Exhibit 1 marked for identification and tell the jury whether there is anything

unusual about that gun, that is, either as to color or size?

A. Well, it is a .38 police positive of Spanish make. Outside of the markings we placed on it, there is nothing else peculiar about it.

Q. There are a lot of black guns like that, aren't there; that is, in appearance?

A. There are a lot of black guns, but there are very few Spanish make guns of that type.

Q. What is the difference between the Spanish guns and the rest of these black ones?

A. Well, in appearance, I don't suppose there is too much difference.

Q. Did you see any jewelry there?

A. Just the jewelry that Hutchison had found.

Q. You saw some jewelry that Hutchison showed you later?

A. Yes, sir.

[fol. 170] Q. I mean, you didn't see that after you went into the room, did you?

A. No, sir. I had my hands full watching Morgan.

Q. Do you recall what pieces of jewelry Sergeant Hutchison showed you?

A. Yes. There were two rings and a watch.

Q. And at that time you didn't know who that jewelry belonged to, did you, at the time he showed it to you?

A. No, sir.

Q. Was it later identified by Mr. Barr as his jewelry?

A. Yes. The ring and watch was identified as his.

Q. What did he do in making this identification to you, if anything?

A. I don't know how he identified it. He identified it as being his jewelry.

Q. He just said it was his jewelry, is that right?

A. Yes, sir. The watch, he has the numbers of.

Q. That's all you recall that he did?

A. Yes, sir.

Q. So after you arrested Morgan, that is, you had him under arrest, where did you take him?

A. We went back to the Wabash Avenue Station and picked up Anderson.

Q. Picked up Anderson; and then you took both of them [fol. 171] to 11th Street?

A. Yes, sir.

Q. When you got to 11th Street, who did you see there,—I guess Officer Hutchison was there—who might be interested in this case?

A. Mr. Barr was called there.

Q. What time did Mr. Barr come down there, do you know? You don't have to be exact.

A. I'd say about nine o'clock.

Q. And at that time, isn't it a fact that he said that Anderson was the man that tied him?

A. I never heard him say that.

Q. You never heard him say that?

A. No, sir.

Q. At the time that he came there, Anderson and Morgan were together, weren't they?

A. Yes, sir. And there were some other colored police officers from the Bureau there, and some white police officers.

Q. At any time, Officer Piotter, during these identifications that you were having Mr. Barr make, did you have any of these defendants in line with any other persons so that they might be picked out?

A. Yes, they were all standing in with all these colored policemen.

Q. They got in with the policemen?

[fol. 172] A. Yes, sir, they were all standing in a group.

Q. So then, if they wanted to make an identification, they would reach over and say, "This is the one"?

A. No. He'd have to pick him out of the group.

Q. But you never had a line of men standing up?

A. No, we didn't have him in a show-up or a line-up of any kind; just the group.

Q. No show-up?

A. No, sir.

Q. How long did you stay at the Bureau that evening?

A. Oh, a little after midnight.

Q. Then, I presume, you went to Oak Park.

A. Yes, sir.

Q. You took the prisoners with you?

A. Yes, sir.

Q. Now, you arrived in Oak Park. What did you do with him?

A. We took a statement from Anderson.

Q. That's first?

A. Yes, sir.

Q. During the taking of this statement, where was Morgan, if you know?

A. He wasn't locked up. He was no doubt handcuffed. I believe he was handcuffed to a chair in the sergeant's office.

Q. Handcuffed to a chair in the sergeant's office?

A. Yes, sir.

[fol. 173] Q. How far is this place where you were taking the statement, approximately, from the place where Morgan was handcuffed to this chair in the Sergeant's office?

A. About twenty-five feet. You just go out of one door and down a few stairs into the sergeant's office.

Q. If anybody was hollering or yelling you could hear him from the place where the statement was being taken up to the other place, couldn't you?

A. Yes, sir.

Q. Did you hear anyone yelling or hollering prior to the taking of the statement or during it?

A. At no time.

Q. How long did it take you to take this statement from Anderson?

A. Oh, an hour, an hour and one-half.

Q. Who was asking the questions?

A. Sergeant Hutchison.

Q. Was it a written statement?

A. Typed.

Q. Who was doing the typing?

A. He also typed it. He typed it and then asked the question.

Q. Who else was present?

A. I don't recall, outside of Sergeant Hutchison and myself, when Anderson's was taken.

Q. Was Officer Witte around?

[fol. 174] A. Yes, sir, Officer Witte was there. He was working in the station.

Q. And then, after you finished with Anderson's statement, what did you do, if anything, in regard to Morgan?

A. Took a statement from Morgan.

Q. And was that immediately after you had finished with Anderson?

A. Yes, sir.

Q. What time did you end the statement with Morgan? What time did you finish taking it?

A. Round two, two-thirty.

Q. Two-thirty in the morning?

A. Yes, sir.

Q. Then what did you do after you finished the statement?

A. That was about four-thirty in the morning that he finished his statement.

Q. What did you do with Morgan after four-thirty?

A. After four-thirty, he was locked up.

Q. Either prior to the taking of this statement or subsequent to the taking of this statement, did you at any time take Morgan down into the basement and tie him up and pull him up to the ceiling?

A. No, sir.

Q. And strike him in the stomach at the time?

[fol. 175] A. No, sir.

Q. And did anybody do that in your presence?

A. No, sir, they didn't.

Q. If anyone had done that and you were upstairs, you wouldn't have known a thing about it, would you?

A. If he was in the basement?

Q. Yes, if he was in the basement and you were upstairs.

A. If he had made any noise at all, I would.

Q. You would hear it, if he had made any noise?

A. Yes, sir.

Q. And at the time that you started taking Morgan's statement, did you offer him any inducement at all to make the statement?

A. No, sir.

Q. What did you say to him, Officer Piotter, when you got ready to make the statement?

A. We asked him if he cared to make a statement. He says, "Yes," he would. We told him that he had his rights as to an attorney, and anything that he might say in that statement would be used against him in a court of law.

Q. Who warned him?

A. Officer Hutchison, any time he starts to make a statement.

[fol. 176] Q. You heard Officer Hutchison warn him as to his constitutional rights?

A. Yes, sir.

Q. And he told him that he could have a lawyer?

A. Yes, sir.

Q. Do you know what he said?

A. He said he was perfectly willing to make a statement.

Q. He said he didn't want a lawyer?

A. I don't recall if he did or not.

Q. Now, how long did Morgan remain in the lock-up on the morning of June 6th, after the taking of this statement?

A. Until—well, we went out and picked up Jennings then.

Q. No. I want to know how long Morgan stayed down in this lock-up, if you know.

A. Until we brought Jennings back.

Q. Until you brought Jennings back?

A. Yes, sir.

Q. What time was that, sir?

A. Oh, seven, eight o'clock in the morning.

Q. By the way, how long had you known that you were looking for Morgan prior to the time that you arrested him in the Evans Hotel?

A. I can't hear you.

[fol. 177] Q. How long had you known that you were looking for Morgan, that is, known him by his name, or by any other name, prior to the time that you arrested him at the Evans Hotel?

A. How long? About the 29th we knew his name was Blackie.

Q. You knew his name was Blackie?

A. Yes, sir, Blackie or Buddy.

Q. Did you obtain a warrant for his arrest at that time, when you found out that his name was Blackie?

A. Yes, we got a John Doe warrant.

Q. Did you obtain a warrant for a person by the name of Blackie?

Mr. Brown: He says he had a John Doe warrant.

Mr. Geter: A John Doe warrant is different. You know it is, too.

Mr. Brown: I know of no such thing, your Honor.

Mr. Geter: You better find out.

Mr. Brown: Do you want me to stay here another twenty years to find out, counsel?

Mr. Geter: No. I think, if you search your memory, you would probably know.

Mr. Brown: After twenty years, I know all about it. I know enough.

[fol. 178] Mr. Geter:

Q. Mr. Piotter, did you have a warrant naming one Blackie?

A. No, sir.

Q. Did you have a warrant to search any premises at 6101 Evans Avenue?

A. No, sir, we didn't.

Q. By the way, where did you arrest Jennings?

A. 5303 Dearborn.

Q. That's in Chicago?

A. In Chicago; the second floor.

Q. What date and what time did you go there?

A. Six o'clock in the morning; five-thirty, six o'clock on the 6th of June.

Q. How's that?

A. The 6th of June.

Q. About six o'clock in the morning; five-thirty, six o'clock in the morning?

A. Yes, sir.

Q. How long had you known about Jennings? How long had you known Jennings' name prior to the time that you were there?

A. We didn't know anything about Jennings outside of the fact that he was called Blackie, also.

Q. Outside of what?

A. Outside of the fact that he was also called Blackie.

Q. Oh. They all were called Blackie, is that right?

A. It seems that way.

[fol. 179] Q. But you didn't have a warrant for his arrest, either, did you, when you went out there?

A. No, sir. We had one John Doe warrant.

Q. You had no warrant to search the premises there, did you?

A. No, sir, we didn't search the premises then.

Q. But you had no warrant. If you had searched, you didn't have a warrant?

Mr. Brown: Object to the speculation, your Honor.

The Court: The objection is sustained.

Mr. Geter:

Q. Now, you went there. How did you gain admission to the premises?

A. Knocked on the front door.

Q. What happened?

A. The lady opened the door and let us in.

Q. Then, when she opened this door, did she invite you to come in?

A. Yes, sir.

Q. What did she say to you?

A. We told her we were police officers and we were looking for a fellow by the name of Blackie, and she let us upstairs, invited us in.

Q. You told her you were police officers. I didn't quite hear you.

A. She invited us in.

[fol. 180] Q. Invited you in?

A. Yes, sir.

Q. And you went to the second floor?

A. Yes, sir.

Q. And when you got up there, what did you see when you first got up there?

A. A couple of women there. One was in bed. I went to the back part of the house and saw a light in a room. At the time I didn't know what room it was. I opened the door and I found it to be a bath room, and Jennings was in there.

Q. Did you know Jennings when you opened the door?

A. By the description that we had of him, I was reasonably sure that was the man.

Q. And what was Jennings doing, if anything?

A. He was trying to dress hurriedly.

Q. Trying to dress?

A. Hurriedly, yes.

Q. Why hurriedly?

A. Well, he later told me that if he could have got dressed, he would have jumped out of the window.

Q. So he knew you were in the flat, is that right?

A. Yes, sir, I imagine.

Q. Could he see through the door, or something? The door to the bath room was closed, wasn't it?

A. The door was closed, yes, sir.

Q. And he told you that if he could have gotten his clothes [fol. 181] on in a hurry, he would have jumped out of the window?

A. Yes, sir.

Q. And when did that conversation take place?

A. In the bath room.

Q. Oh, this is all in the bath room?

A. Yes, sir.

Q. That's all he said to you in the bath room?

A. That's right.

Q. He didn't ask you who you were, or anything?

A. I told him "police officer." I told him to come out. I said, "If there's anybody in there, come out. Police officer."

Q. Then did you handcuff Jennings?

A. I don't believe we did in the flat.

Q. What did you do, after he got on whatever he got on to come out? What did you do with him after that?

A. Put him in the squad car.

Q. Did you stop anywhere in the room?

A. We stopped while he finished dressing, yes.

Q. Did you notice anyone push or shove anybody other than Jennings in the room?

A. No, sir.

Q. Did you notice anybody going through the dresser drawers and upsetting the room generally?

[fol. 182] A. No. The police officers were looking around. I had Jennings and I didn't have time to look.

Q. When you said "looking around," was he just walking around glancing here and there?

A. I didn't pay any attention to what they were doing.

Q. Everything else was quiet and peaceful in this apartment, isn't that right?

A. Yes, sir.

Q. And at no time did you hear any commotion of any kind?

A. No; just the women wanting to know what we were arresting him for.

Q. Did you see anybody take any rings off of a lady's hand in there?

A. No, sir.

Q. Did you see anybody take a watch away from a lady?

A. No, sir.

Q. By the way, how many officers were with you at the time you went in there?

A. Lieutenant Nester, Sergeant Thor; and we had a couple of police officers from the Wabash Avenue Station.

Q. There were five of you, is that right? Four of you, without yourself?

A. There could have been five. But the Chicago men were supposed to be around the building.

Q. Do you have any recollection as to what any of the [fol. 183] rest of these officers were doing in your presence?

A. I couldn't watch them all. I had my hands full after I got Jennings to watch him.

Q. Then you came downstairs and put Jennings in the squad car. Where did you take him to?

A. Took him to 11th and State, the Bureau.

Q. How long did you stay down there?

A. Oh, just long enough for them to run him through the Bureau. About an hour.

Q. About an hour?

A. Yes, sir.

Q. Do they run them through faster in the morning than they do in the evening, or what?

A. They do, if they are busy, yes.

Q. Then you proceeded to go to Oak Park, is that right?

A. Yes, sir.

Q. You arrived out there about what time?

A. Around eight o'clock.

Q. Then where did you take Jennings at the time that you took him to Oak Park; whereabouts in the station?

A. The lieutenant's office.

Q. And did someone start talking to him?

A. Yes. Lieutenant Nester brought up Morgan.

Q. Well, he had Morgan brought up, is that right, or did he bring him?

A. He had him brought up. And we called Mr. Barr to [fol. 184] come in.

Q. You called Mr. Barr, also?

A. Yes.

Q. And when Mr. Barr got there, he looked the fellows over, is that right?

A. Yes, sir. He identified Jennings at that time.

Q. As a matter of fact, when Jennings walked from you, he says, "I can tell that men from the rear." Did he say that?

A. No. He just says, "That's the man who was in my store."

Q. He says, "That's the man, that's the other man," is that right?

A. As I recall, he says, "That's the man that was in my store" or "One of the men who came in my store."

Q. Then what transpired after Mr. Barr made his identification now?

A. Jennings was shown a statement of Morgan's. He read it over and made a correction in it.

Q. He sat down and read the statement or did he stand up, or what?

A. The statement was read to him, and then he objected about some jewelry that he had gotten.

Q. He didn't read it, it was read to him. Who read it to him?

A. Lieutenant Nester.

[fol. 185] Q. And everything was all right except about one little thing in there?

A. He objected to that, and so the lieutenant wrote in an objection as to what he got, and he initialed it and signed it.

Q. He put his initial on it?

A. No, he signed it. He signed his name.

Q. No, you have both signatures on this statement, isn't that correct?

A. He also signed the statement, yes, sir.

Q. Was Morgan there while all this was going on? Morgan was there while all this was going on, is that correct, sir?

A. Yes, sir.

Q. I believe you testified on direct examination that they got some jewelry from Jennings at 5306. Did you see any jewelry there?

A. He was wearing a ring.

Q. He was wearing a ring?

A. That's right.

Q. Did you get a watch from him?

A. No, sir.

Q. Have you recalled all the time now that they said they got some jewelry from Jennings? You have known that all the time, haven't you?

A. As I recall, they got a ring from Jennings.

[fol. 186] Q. Mr. Piotter, without looking at those tags, because I think they specifically state where all this business came from, would you pick out the ring that came from Jennings, without looking at the tag, sir?

A. This one (handing item to counsel).

Q. This is it?

A. I believe so. I don't want to get too close to it.

Q. And where is the jewelry you got from——

Mr. Brown: (Interrupting) May we have the record show what he has picked out, Mr. Geter?

Mr. Geter: He says he believes this is the ring.

Mr. Brown: May we have the number?

Mr. Geter: Yes. He has picked out People's Exhibit 8.

Mr. Brown: May the record show that that has been identified as the ring taken from Jennings' room previously, your Honor?

Mr. Geter:

Q. Now, Mr. Piotter, was this ring identified by Mr. Barr as his property?

A. Yes, sir.

Q. When was that?

A. I don't recall when it was.

Q. What kind of identification did he make of it?

A. I don't remember how he identified it.

[fol. 187] Q. Well, you know he said it was his ring, don't you?

A. I know it was identified, but I don't know just at what time or how he identified it.

Q. Did you show him the ring for the purpose of identification?

A. No, I didn't.

Q. You were present when it was shown to him, though?

A. No, I don't recall being present when it was shown to him.

Q. How do you know he identified it?

A. Well, I was told that it was the ring identified by Barr.

Q. All right. You said there was a ring, I believe, that Smith was wearing?

A. Yes, sir.

Q. Would you pick that ring out, if you can?

A. Yes, sir, (handing item to counsel).

Mr. Geter: This is People's Exhibit 9.

Q. Do you know, of your own knowledge, whether or not Mr. Barr ever identified this as his ring?

A. No, I don't, not of my own knowledge.

Mr. Brown: Do you mind reading the number of that again, Mr. Geter? You said nine.

Mr. Geter: Oh, I read the wrong number. It is Item 9. It is People's Exhibit No. 6.

[fol. 188] Mr. Brown: And that has been identified as the ring taken from Smith.

Mr. Geter: Let's get this other one straight there, too. This other one is People's Exhibit 8. I was reading the blue mark on there instead of the black mark.

Mr. Brown: You read the other one right, This one, you said, was nine and this one was six. I thought you were reading it upside down.

Mr. Geter: No, I didn't read it upside down.

Mr. Brown: O.K.

Mr. Geter:

Q. Do you know, of your own knowledge, whether or not Mr. Barr ever identified this as his ring?

A. No, sir.

The Court: Is that all, Mr. Geter?

Mr. Geter: Not all of the cross examination. Just on this jewelry.

The Court: We will take a short recess at this time.

(A short recess was had.)

The Court: Bring in the jury.

Mr. Geter: May I proceed?

The Court: Proceed.

Mr. Geter:

Q. Officer Piotter, did you have an occasion to go to [fol. 189] Lake and Western in making your investigation in this matter?

A. Lake and Western?

Q. Yes; the restaurant.

A. We drove by there, that's all.

Q. You never stopped in at a restaurant there?

A. No, sir.

Q. Now, you made this trip to Cleveland with Morgan, is that right, on June 7th?

A. Yes; Monday morning.

Q. At the time that he left to go to Cleveland, he was in custody of the police, is that right?

A. Yes, sir.

Q. And when you took him to the F. B. I. office, he was still in the custody of the police?

A. Yes, sir.

Q. And he remained in the custody of the police throughout the trip, is that right?

A. Yes, sir.

Q. Mr. Barr was with you on that trip?

A. Yes, sir.

Q. Were you present with him at any time when he identified any of his jewelry?

A. No, sir. I was in the Cleveland police station.

Q. You never saw him identify any jewelry in Cleveland?

A. No, sir.

[fol. 190] Mr. Geter: That's all.

Mr. Brown: That's all.

The Court: Step down.

(Witness excused.)

[fol. 191] Reporter's Certificate to foregoing omitted in printing.

[fol. 192] SUPPLEMENTARY EXHIBIT #1

IN THE CRIMINAL COURT OF COOK COUNTY

[Title omitted]

PROCEEDINGS ON MOTION TO SUPPRESS EVIDENCE

Excerpt from proceedings had in the above entitled cause on Friday, August 13, 1948, before the Honorable Alan E. Ashcraft, Jr., sitting as a Judge in the Criminal Court of Cook County, the same being one of the judicial days of the August, 1948, term of said court.

Present: Hon. Wm. J. Tuohy, State's Attorney, By Mr. James A. Brown, Assistant State's Attorney, Attorney for the People; Mr. H. D. Geter, Attorney for petitioners.

[fol. 193] The Court: The issue here is, some time after a crime was committed—and you are able to show a crime was committed—the police officers had a car; they found one of the owners of the car, and he implicated the other owner, his co-partner. He said his co-partner, who is one of the petitioners here, had the car on that date. They apprehended that man, and through him obtained information about others. The question is whether the police officers, told that a certain person is implicated in a crime—whether they have a right, on that information alone, information from an accomplice, to go to a man's home, arrest him and search his premises. I think that is the issue.

As far as Smith is concerned, it would appear they had justifiable evidence. As to the others—have you a case on that?

Mr. Brown: I don't have it at my finger tips but I will be glad to produce it. Why don't we put this over until Monday for the argument on the law? I will be glad to bring in some law at that time.

[fol. 194] Mr. Geter: That last statement the Court made, I don't think it is very clear, as to the arrest of Smith, because at the time Smith was arrested they didn't have any information other than the fact——

The Court: (Interrupting) But he was the co-owner of the car that was used in the robbery. That would be some ground for suspicion. I think that would almost be reasonable ground.

Mr. Geter: To the State it might have been.

Mr. Brown: Assume he told the police that men were implicated in that robbery with him, and the police could not get a warrant for the next twelve hours.

Mr. Geter: This is ten days.

Mr. Brown: Pardon me. This was six o'clock at night, say, and they did not go out until the next day at eleven o'clock, then they found they had gone to Cleveland. Would that be reasonable grounds for every paper in Chicago condemning the police department for not making an arrest when they were told by a co-defendant that he was implicated in the robbery?

The Court: The issue here is not whether the police [fol. 195] might have been justified because of the publicity in doing certain things. It is a question of how that pro-

cedure would be justified. It would appear to me that the police in this case did some very fine work, but we still have the constitutional provision——

Mr. Brown: There is not any question about the law.

The Court: I won't be here Monday.

Mr. Brown: Put it on for tomorrow morning, then, Judge.

Mr. Geter: Judge, I can't be here tomorrow. I have some other cases here, too. In this case, as I say, I think the issue is pretty clear.

The Court: Is this case set for trial?

Mr. Geter: No, it has not been set yet.

Mr. Brown: Not only that, your Honor, but the police want a late date. They are still investigating that Cleveland angle in this matter.

Mr. Geter: I don't care about what angle they are working on.

The Court: What about Monday, August 23rd? Will you be here then?

Mr. Geter: That is all right with me.

The Court: Make it Thursday, August 26th. If you [fol. 196] have any cases you want to submit to me between now and then, I will rule on it on August 26th.

Mr. Geter: I have some I would like to submit.

Mr. Brown: It is understood, your Honor, that the State has not rested in this matter. There is an argument now to dismiss it at the end of the petitioners' proof.

The Court: That is right.

Mr. Geter: I would like to submit this to you now, Judge. Some of those citations are in Cahill, because it was taken from an old brief of mine, but nevertheless you will find the provisions are still the same.

The Court: August 26th.

Whereupon the further hearing of this cause was continued to Thursday, August 26, 1948.

[fol. 197] Reporter's Certificate to foregoing paper omitted in printing.

[fol. 198] SUPPLEMENTARY EXHIBIT #1 (PART TWO)

[Title omitted]

Before: Judge Ashcraft, Monday, October 4, 1948, At ten o'clock a. m.

Court met pursuant to adjournment.

Present: Mr. Edward Healy, Mr. James A. Brown, Assistant State's Attorneys.

Mr. H. D. Geter, On behalf of Arthur Smith, Talbot Jennings and Edgar Donald Morgan.

Whereupon the following proceedings were had:

The Court: Are you ready Mr. Brown?

Mr. Brown: As I recall, I have been away, but, as I remember this it was a motion to suppress which was more [fol. 199] or less argued and some citations were submitted to the Court. I will rest on that.

The Court: Are you ready to proceed to trial after that? After the decision on that?

Mr. Brown: I haven't checked on that. I just came in.

Mr. Geter: My understanding was we were to be ready for trial today, because it was quite a long continuance.

Mr. Brown: It is entirely possible.

The Court: It was my understanding.

Mr. Brown: It is on with subpoenas. I just have not checked to see if the witnesses are here. If the witnesses are here, we are ready, of course.

The Court: The defendants may sit down. The attorneys may step up.

As I remember the facts, I made a few notes in this case. In May '48 a jewelry store in Oak Park was invaded by two men, at gun point, and a quantity of jewelry was removed. That is what the evidence was on it, the two holdup men arrived in a taxicab driven by a third man. The officers were *and* Hutchinson and Pioter of the Oak Park Police. The only clew was the description of the cab. [fol. 200] On May 28th they arrested the defendant Arthur Smith, jr. who admitted part ownership of the cab. Smith also admitted that he was the man that drove the car on the day in question. Smith, at the time of his arrest was wearing a ring which was identified as part of the loot, taken in the store. Smith told police he did not know the two men who were in his cab on the day of the robbery and described them, however he said that one called the

other Blackie or Buddie, I think that was it. Smith also informed the police the location where he picked up and discharged two passengers. Smith received from the two men ten dollars, bottle of whiskey and a promise to take care of him later. Police officers in their investigation, two days later learned that one Fred Anderson, an ex-convict knew a man named Blackie who fitted the description of the man given by Smith. On June 5th the police located Anderson and asked him about Blackie. Anderson told the police that he knew why they wanted Blackie, and that he, Anderson had nothing to do with it, but that, I think he told them that Blackie's name was Edward Morgan, and that he at that time was in Anderson's room at the hotel at 733 East 61st Street. Anderson gave the two police- [fol. 201]. men the key to his room and advised them his rent was paid only to six o'clock that evening and that Morgan was planning to go to Cleveland the same night. Anderson also warned the police that Morgan was armed and dangerous.

The two police officers from Oak Park and two Chicago policemen immediately went to the hotel without obtaining a warrant. I think there was some evidence that they had a forthwith warrant.

Mr. Brown: That is in evidence.

The Court: Which is in evidence. Of course it is a well known fact that many policemen arm themselves with forthwith warrants anyway, to use when occasion arises, and the court takes that into consideration.

Mr. Brown: This was signed by the complaining witness, the complaint was introduced also.

The Court: That may have something to do with it, but there is no evidence they used the warrant when they entered the place. That they showed the warrant to anyone.

Mr. Brown: They don't have to.

The Court: Anderson gave the police his key to his room and they used the key and without knocking, they unlocked [fol. 202] the door with Anderson's key and entered. It was room 412. The police found Morgan and an acquaintance Alice Richards in bed, under clothing and Evelyn Freeman a friend was in the room.

It was uncontroverted the officers seized and removed watch, ring and wallet from the top of the dresser in the room. These articles were in plain sight when the police

entered. Morgan and the Richards girl testified that the officer made a thoro search of the room and discovered a loaded revolver in a dresser drawer. Officers Hutchinson and Pioter, who were called as witnesses by the petitioner, Morgan, testified that the revolver was not concealed in the drawer but was also in plain sight on top of the dresser. The court finds, as a matter of fact, that the revolver in question was at the time of Morgan's arrest on top of the dresser in plain view of the officers.

(Here follows discussion on citations presented.)

The only remaining question is whether the officers had reasonable grounds to believe that the petitioner was in- [fol. 203] volved in the commission of a crime which belief is sufficient to justify an arrest. Until a few minutes before the arrest, the officers knew only that one of the supposed participants in the holdup had been called Blackie or Buddie, and they were told that his name was Morgan, and where he could be found. They were also informed that he planned within a matter of minutes to leave such place and also to leave the city and State as well. Under such circumstances the police officers properly proceeded directly to the Evans Hotel without pausing to obtain a warrant for petitioner's arrest and so proceeding they acted as reasonable, prudent men would act under similar conditions. They knew that a crime had been committed and through intelligent police work, they had reasonable grounds to suspect that the petitioner was connected in some way with the crime. That petitioner may or may not be guilty is of no moment, in connection with the inquiry. The test is whether the officers had reasonable grounds to suspect him.

The Court finds that the arrest is lawful and that the articles which petitioner seeks to have suppressed, were in plain view of the arresting officers and were properly [fol. 204] seized by such officers. The petition is denied.

Mr. Brown: Are the officers here in this Smith, Jennings and Morgan case? Officer Hutchinson, Officer Pioter, and Sidney L. Barr.

The Court: We will hold this case.

Mr. Brown: I assume that they must have felt that the decision was merely to be on the call today. Nobody is here.

The Court: We will pass it until you have an opportunity of checking.

Mr. Brown: I wonder if subpoenas were issued.

The Court: It will take some time to pick a jury. It is a jury case anyway.

Mr. Geter: Yes.

The Court: We will pass it for the time being.

(Whereupon said cause was continued and passed temporarily, and again called later in the morning, and the following proceedings occurred.)

Mr. Brown: The complaining witness is of the Jewish faith and he is high up in the Synagogue there and is partaking of some of the ceremonies today.

[fol. 205] The Court: He won't be able to get in today? Is he available? We could start picking a jury today.

Mr. Geter: If it has to go over, I won't be available before the 18th.

Mr. Brown: The case with Mr. Bellows is on tomorrow. I just heard Chester say shortly before you came on the bench, that Mr. Bellows was ready in that.

The Bailiff: That is what he said, when he was here last week.

The Officer: That would be satisfactory to us to put it over to the 18th.

Mr. Geter: I don't want to agree to a continuance but I was going to see, if we are going to have to go over——

The Court: The Khamis case is supposed to go to trial on the 18th and if it does, it will take the whole week. How about the fourth term?

Mr. Brown: It won't be effective, as long as it was defendant's motion to quash, that stopped the other.

The Court: Monday, November 1st is open, and we can put it on for the first week of the jury or we can start picking a jury today.

[fol. 206] Mr. Geter: November 2nd is election day.

The Court: November 4th, or start picking a jury today.

Mr. Brown: I would rather have my complaining witness here before I say I am ready. He is the one in the synagogue today and is officiating. 1247 is the case. Unless counsel wants to plead guilty this morning, and get it over with.

The Court: November 4th.

Mr. Geter: Motion of the People.

The Court: Or you have it by agreement, they have answered ready.

Mr. Brown: If it is going to be a long continuance to the next term it ought to be by agreement.

The Court: I have no other date until November, I have two or three jury cases set for every day. Motion State.

Mr. Brown: All right; either way.

Which were all the proceedings had on said date in said cause, and same was set for hearing for November 4, 1948.

[fol. 207] Reporter's Certificate to foregoing omitted in printing.

[fol. 208] [Title omitted]

November 4th, 1948.

Mr. James A. Brown, For the People

Mr. Howard Geter, For the Defendant

Mr. Brown: Are your defendants in jail?

Mr. Geter: Yes.

Mr. Brown: In this matter the State is asking for a continuance. We are not quite ready. We have out of town witnesses that are necessary to this case. I would like a continuance until a reasonable time consistent with your call.

Mr. Geter: I am going to object to that. I do not think there has been a proper showing. This case has been ready for quite some time. These men have been in jail since May, I believe. The last time it came up we were ready and the State had it set for today, November 4th. There was some [fol. 209] talk about November 3rd. I do not doubt what he says is true but I think he should set it up in the form of an affidavit and tell us what these people would testify to. We are entitled to that consideration, not just coming in on a date like this and stating they are out of town.

Mr. Brown: There are two more cases set at the top of the call. I assumed they were going ahead. To be perfectly frank about it, I didn't think we were going ahead at all. We need another continuance. We expected to go ahead with the Szaraczynski case and the Davis case. They were on yesterday and held over until today. I was positive they would go ahead.

Mr. Geter: I understood this was at the head of the call.

Mr. Brown: The others were set for yesterday.

The Court: They were set for yesterday and they were held on for today.

Mr. Brown: I find now we will need a little extra time.

The Court: How about December 6th?

Mr. Geter: Of course I object to that. I object to any kind of continuance.

[fol. 210] The Court: The record will show the defendants are demanding trial. That is an open date. I think.

Mr. Brown: I wonder if you can give us one week after that.

The Court: Well, how about the 13th?

Mr. Brown: That would be better.

The Court: Motion of the State December 13th.

Mr. Geter: December 13th?

The Court: Yes.

Mr. Brown: Motion of the state, so your rights are protected.

The Court: Yes.

(Whereupon the further hearing of the above entitled matter was continued to December 13th, 1948.)

[fol. 211] Reporter's Certificate to foregoing omitted in printing.

[fol. 212] [Title omitted]

TRANSCRIPT OF PROCEEDINGS BEFORE JUDGE ALAN ASHCRAFT, JR. ON 12/13/1948

Present: Mr. John S. Boyle, State's Attorney, By Mr. Blair Varnes and Mr. James Brown, for the people; Mr. Howard D. Geter for the defendants.

[fol. 213] The Court: Today is the day you to go trial, the four-term runs today.

Mr. Brown: Your Honor, the Motion to Suppress was not entirely decided until October 4th.

The Court: Is that correct?

Mr. Brown: October 4th, here, Petition to Suppress denied, see it there?

The Court: That takes care of it.

Mr. Geter: I am going to say this, though, Judge on that record No. 1, the first order on there is not correct. It also shows that there was a motion of the defendant for a hearing. Now, that first order, that is when we came up from down at the arraignment. Certainly I did not ask that that matter be continued because they knew the State was not ready, and I was as ready then as I am now.

I would like to correct that and I am going to make a motion at this time to discharge the defendant because even though there was a Motion to Suppress made that the fourth month ruling should prevail anyway.

Mr. Brown: The Supreme Court they said differently, the four-term is stopped on any motions of the defendant.

The Court: Petition filed by defendant, by agreement continued to August 13th. That was continued to August [fol. 214] 13th. On August 13th, petition filed by defendant Smith and Jennings to suppress evidence, heard in part, and continued to August 26th. We had a hearing on the 26th on the motion; order of Court the Motion to Suppress as to Smith and Jennings, denied. Motion to suppress as to Morgan held. Order of Court: Ruling continued generally, order of Court on the——

Mr. Varnes: That was Saturday, October 4th.

The Court: Was that by order of Court?

Mr. Varnes: It was still the motion, your Honor, their motion you decided on two of them, you were sure on two, and you——

The Court: As to two of them, it is the 26th.

Mr. Varnes: It is still their motion, the case could not be decided if you were not entirely finished, because there were three petitions.

The Court: You want the Court to keep on continuing the matter?.

Mr. Geter: I say not.

Mr. Brown: Any reasonable time——

The Court: What is a reasonable time—just keep on continuing the Motion to Suppress and keep a person in jail indefinitely without trial. I do not think any Court would [fol. 215] hold that.

Mr. Varnes: It was their motion, certainly we didn't stop the case. If you remember, all through their arguments I asked that we hold this till the trial, and they wanter their motion heard before the trial started.

Mr. Geter: That is the law, the only time you could hear it.

Mr. Brown: Oh, no, you can hear it any time, so long as it is filed in apt time. Then the Court can hear it at the time the evidence is about to be presented, if he wishes to.

Mr. Geter: We did nothing to stop the Court from ruling on it.

The Court: I remember I took it under advisement, I thought that was by agreement, but the record does not show it.

Mr. Brown: The first time you can set it then is after August 26th, your Honor, was October 4th, so that is the first date on which we could have gone to trial.

The Court: Motion to Suppress denied as to some of them, and trial set for October 4th.

Mr. Brown: That is right. It does not name what happened as to Morgan on August 26th.

[fol. 216] The Court: We had to dispose of the other matter first, and then it seemed that it would be four months after that.

Mr. Geter: As you say, I do not believe the Court—of course, there was no reason, the defendants had rested their evidence long before the Court ruled on this, and as you said, I do not believe a Court could continue even on the Court's own motion and keep a man in jail, these fellows have been in jail since May 28th, that is when one of them was originally arrested, and you certainly overruled the motion, you said, on the 26th as to somebody, Smith and Jennings.

Mr. Varnes: And at that time the case was set for October 4th. That was the first time it could be set, you are practically at the First of September, then you can't expect the Court to put you way in front of everybody.

The Court: The present four-term starts on the 13th or the 26th, we heard part of the evidence on the 13th on the Motion to Suppress, and heard part of the evidence on the 26th.

Mr. Brown: That is right.

The Court: I believe the time started on the 26th, so today is not the last day, you have till the 26th.

[fol. 217] Mr. Brown: Judge, we couldn't start the trial on the 26th when the motion as to Morgan was still pending, and you could still say it was pending as to Morgan on the 26th.

The Court: As to Morgan you may be right.

Mr. Brown: This is the same question as to all of them.

Mr. Geter: So what? That does not make any difference.

The Court: That does not make any difference. It is Order of Court. The fact you had twenty cases waiting under the statute wouldn't make any difference, now, as I understand it. What about the continuance today, you want one when the jury start on the 20th, there will be a new jury on the 20th and we could set it for the 23d, you could still be picking the jury on the 23d and let it go over to the 27th. You won't need your witnesses here till the 27th, the 26th is the Sunday. How about the four-term act?

Mr. Brown: Sunday does not count.

Mr. Geter: Judge, I made preparations to go out of town.

Mr. Brown: I am going to suggest we start on the 23d [fol. 218] and I will start picking a jury that day, and we will try it on the 27th, it is my suggestion, and there won't be any question about it.

Mr. Geter: Judge, we have witnesses that have come here and they have been here twice from out of the city, and each time the State has, I don't know what the reason for the continuance—the last time the reason for the continuance was they just were not ready, and I objected.

The Court: What is your reason for continuance today?

Mr. Varnes: The reason for a continuance today, your Honor, is because we were not entirely sure where we stood as to the availability of the complaining witness, who had been in Cleveland in the Federal Court on this case on the 17th, the 16th, rather.

The Court: You probably wouldn't have been completed by that time anyway.

Mr. Varnes: I don't expect it would, and we probably need him in rebuttal, and we would be without him.

The Court: Doesn't one of your clients have to be in Cleveland?

Mr. Geter: I hope not. They took him a couple of times, I am his law-er, I don't know what happened, that is, what happened, I have not been able to see Morgan for a couple [fol. 219] or three weeks.

The Court: I think you will find they take him there.

Mr. Geter: If they are planning to take him any where, we are asking for a trial or that these defendants be discharged. I think we proved the rule enough in this case. In

the first place, I think No. 1, if I came in here to get a continuance, I would have to set up an affidavit asking why we wanted to continue the trial, on any kind of business in my situation, and I think the same thing applies to the State, just the mere fact the State comes in there under these circumstances, is supposed to have the right-of-way, the right of determination or something like that?

Mr. Brown: You could have been tried in July, but you stopped it with your motion to suppress.

Mr. Geter: I had a right to stop it if I wanted.

Mr. Brown: You did and have done it.

Mr. Geter: But I don't have the right——

The Court: You want it set the 27th or the 23d?

Mr. Brown: I would like to have it set for the 23d, your Honor.

The Court: All right.

Mr. Brown: The 23d, and we will pick a jury.

[fol. 220] Mr. Geter: From the 23d, now, just a minute, as I said, I have made preparation to go out of town on the 26th around Christmas, preparations, I am not due back here till the first. Of course, if we are, if the defendants don't have any rights, we are going to have to go to trial the 23d just because one of the witnesses might have to go to Cleveland or something like that, I don't think that is any good reason for continuing the case, the fact he might have to go to Cleveland on the 16th of December in some other case. This case to the defendants is just as important as that case in Cleveland, and it narrows up, I think we should—at least we are ready for it, and I think I am going to renew my motion, I would like the Court first to pass on my question of correcting that record, although the Court says it started—stopped when I made my motion to suppress, that first order was not on motion of the defendants, and I believe the Court, if he will refer to his notes, will find we come in here right upstairs from arraignment, we certainly wouldn't ask the matter be continued at all really to any particular date. I examined the record and I found that was what went on.

The Court: Then it was continued to August 13, but there [fol. 221] was evidence heard on the 13th, evidence heard on the 26th——

Mr. Geter: I am talking about the June order, Judge.

The Court: When it starts—it starts on the 26th.

Mr. Geter: It starts on the 26th then, wasn't August——

The Court: Now, counsel, he can't go to trial here today, the witness has to be in Cleveland, and the defendants has to be there, we can set it for the 23d or set it for the 27th by agreement, if you are going to be away during that week, we will have to have it be continued by agreement.

Mr. Geter: I will forego going away, I feel that is more important, but I will just go ahead and surrender my matter, make other arrangements, but I want to say this, I want to make a motion to discharge him, and I want a ruling of the Court at this time because we are ready for trial today.

The Court: You are convinced the four-term does not start today?

Mr. Brown: Yes, I am convinced.

The Court: All right, then we will continue it to December 23d for trial.

Mr. Geter: Could I have a ruling on my motion?

The Court: The motion is denied.

[fol. 222] Reporter's Certificate to foregoing omitted in printing.

[fol. 223] SUPPLEMENTARY EXHIBIT #1 (PART THREE)

[fol. 224] 48-1247

THE PEOPLE OF THE STATE OF ILLINOIS

vs.

ARTHUR SMITH, ET AL.

July the 28th, 1948.

Before Judge Alan Ashcraft

The Court: We have a case on trial. Are you ready?

Mr. Geter: Yes, I am ready but I would like to file a motion to suppress. I served notice on the State's Attorney.

The Court: What about the State?

Mr. Brown: If he filed a motion to suppress, we will want some time. Will you put it down about two weeks for arguments on the motion to suppress?

Mr. Geter: I served a notice on the State.

Mr. Brown: As to Morgan?

Mr. Geter: Yes.

Mr. Brown: He represents Smith and Jennings.

Mr. Geter: I represent all three of them.

The Court: What about August 10th?

Mr. Geter: I have a case in Rockford, Illinois, on August 9th.

The Court: We could have just the motion that day.

[fol. 225] Mr. Brown: Do you represent all of them?

Mr. Geter: All three.

Mr. Brown: And you have a motion to suppress as to all three or just Morgan?

Mr. Geter: As to Morgan, because that is where the property was taken.

The Court: Do you have to bring in all the witnesses, anyway, on your motion?

Mr. Brown: It is his move—whatever witnesses he wants.

Mr. Geter: I say you will have to bring in the police officers so I can examine them.

Mr. Brown: If it is your motion, you want the police officers as your witnesses.

Mr. Geter: I say they got it illegally, under oath. It is up to you then to show you didn't get it illegally.

Mr. Brown: Oh, no. I will have the police officers here, though. Bring the police officers in on the 13th and we will argue the motion to suppress. But it is your petition. They are your witnesses, not the State's witnesses.

Mr. Geter: All right, I will put them on to testify they got it illegally.

[fol. 226] Mr. Brown: You allege certain things and you have to put it in issue. You don't just put something on a piece of paper and say it is up to me.

Mr. Geter: I will put it at issue.

The Court: All right, August 13th, motion to suppress only.

Mr. Brown: That is by agreement.

Mr. Geter: I would like to file the motion.

Mr. Brown: Without subpoenaes, but the police officers will be here.

Whereupon the further hearing of the above entitled matter was adjourned until August 13th, 1948.

[fol. 227] [Title omitted]

August 26th, 1948.

Before Judge Alan Ashcraft.

(Here follows a portion of the proceedings had on this date, as follows:)

The Court: Now let's get to Smith. I haven't made any ruling on Morgan as yet. Smith, as I understand, there wasn't very much testimony about his arrest, was there?

Mr. Geter: I think the officer testified that they arrested Marcus Williams, or something, and he told him he was a partner of Smith and that is how they happened to go to Smith's home.

Mr. Brown: They had a description of a cab.

The Court: Yes, I know. They got the owner of the cab and he said Smith was the co-owner and had it that day.

Mr. Brown: And he was arrested on the 28th of May, about one P. M., at 441 East 42nd Street. Of course, the evidence is further that Smith made a complete confession, implicating the other defendants.

[fol. 228] The Court. Jennings is the one that was in the bathroom.

Mr. Geter: Yes.

The Court: It was not his own home and Rosanna Watson let the police in. They brushed past her and picked up Jennings in the washroom and they tore up the house—what is that about a gun?

Mr. Geter: Asked her about a gun.

The Court: Demanded the gun. They took a watch from Rosanna but they gave it back to her. Then they went in and took rings from Evelyn Jackson right off her fingers. That's all they found when they arrested Jennings.

Mr. Geter: That is what they testified. Of course, Jennings said he had a ring that they took, too, but they denied they took any ring from Jennings.

The Court: Jennings testified he was arrested about five-thirty in the morning in the bathroom and they took a watch and ring from him and rings from Miss Jackson. They searched the dwelling there and they had nothing. As far as taking the rings from the Jackson girl, this was not the dwelling house of Jennings.

[fol. 229] Mr. Geter: He doesn't claim any interest in it and he had no interest in the rings.

The Court: As far as Jennings is concerned, there doesn't seem to be anything to suppress.

Mr. Geter: They took nothing from him, according to the police officer.

The Court: So that disposes of Jennings. Smith isn't making any claim. Smith said they wanted to talk to him about his car. They grabbed him and took him to Oak Park where he remained eight days. So evidently there is nothing, as far as Smith is concerned. So the only question at all is this question of Morgan.

Mr. Geter: That is why I filed a petition on his behalf at first, but when I talked to them, they told me about these other things and I filed petitions on behalf of all the defendants.

The Court: Do you have any further testimony you want to put in?

Mr. Brown: I haven't put any in.

The Court: Do you have any you wish to put in?

Mr. Brown: At this time?

The Court: Yes.

[fol. 230] Mr. Brown: If you recall, I said at the end of the petitioners' evidence I was making a motion to deny his petition and if at that time the Court overruled me, I would offer evidence, but I didn't want to offer any evidence on an exploratory matter.

The Court: As far as Smith and Jennings are concerned, your motion is sustained and their petitions are denied.

Mr. Geter: I would like for the Court to also find that there was no property taken from them. They contend there was some property taken and I wouldn't want to be caught in the position of having them offer some property on the trial.

The Court: It might be a question of property taken personally but there was nothing taken in any dwelling house.

Mr. Brown: In order to shorten this, I might ask the Court for leave to put the officer back on the stand for further cross-examination. Piott is the one he put on as his first witness.

Mr. Geter: I am objecting to that.

Mr. Brown: And he is the one who said he had a John

Doe warrant for Morgan. If that would change the Court's [fol. 231] opinion any, I will offer that warrant in evidence.

The Court: You would have to do that in your own case. What is the effect of a John Doe warrant?

Mr. Brown: That would take it entirely out of the realm of an arrest made without a warrant. I am arguing they had a right without a warrant at all.

The Court: The ruling is that the petitions of Smith and Jennings are denied. The motion of the State is sustained. At this time the motion of the State to dismiss the petition of Morgan is taken under consideration.

(Here followed further discussion between the Court and counsel, and testimony of witnesses.)

The Court: We better proceed with the case on trial. I will take this under advisement. Do you want an early date for trial?

Mr. Geter: I want to make a motion to reduce the bond.

The Court: What was the amount taken?

Mr. Brown: Approximately $12,000.00 taken in the robbery.

The Court: It doesn't seem like an unreasonable bond [fol. 232] for that large a robbery.

Mr. Geter: $10,000.00 is always unreasonable.

The Court: They probably can't even make $5,000.00.

Mr. Geter: I think $5,000.00 would be reasonable.

Mr. Brown: Any reduction would be over the objection of the State in the case of robbery with a gun of a jewelry store. On the motion also I ask the Court to take into consideration the previous records of these defendants for armed robbery.

The Court: I don't think it is excessive. October 4th.

Whereupon the further hearing of the above entitled cause was adjourned until October the 4th, 1948.

[fol. 233] Reporter's Certificate to foregoing omitted in printing.

[fol. 234] SUPPLEMENTARY EXHIBIT #2

[Title omitted]

Before Judge Ashcraft and a Jury

Indictment No. 48-1247

Thursday, January 6th, 1949, 10:00 o'clock A.M.

Court met pursuant to adjournment.

Present: Mr. Brown, Mr. Phillips, Mr. Geter.

(And thereupon the following proceedings were had in the presence and hearing of the jury, to-wit:)

JAMES HUGHES, a witness called on behalf of the defendant, Jennings, having been first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Geter:

Q. What is your name, please?
A. James Hughes.
[fol. 235] Q. Where do you live, Mr. Hughes?
A. Detroit, Michigan.
Q. What is your address in Detroit, Michigan?
A. 1726 Saint Antoine Street.
Q. How long have you lived in Detroit, Michigan, sir?
A. Thirty-five years.
Q. And were you living in Detroit, Michigan, in May of 1948?
A. Yes, sir.
Q. And where were you living at that time?
A. 1726 Saint Antoine Street.
Q. Do you know a man by the name of Talbot Jennings?
A. I do.
Q. And how long have you known him?
A. I have known Talbot Jennings since May 22nd.
Q. May 22nd, 1948?

A. That's right.
Q. And do you see him in the courtroom?
A. Yes, I do.
Q. And that is?
A. The young man sitting right there (indicating).

The Court:

Q. You have known him since when?
[fol. 236] A. May 22nd.

Mr. Geter:

Q. How did you happen to talk with Jennings on May 22nd?
A. Talbert Jennings was sent to me by a cousin of his from Chicago.
Q. Why was he sent to you?

Mr. Brown: Object.
The Court: The objection is sustained.

Mr. Geter:

Q. Where did you first meet Talbert Jennings?
A. I went to the station to meet him. He called me by telephone.
Q. That was in Detroit?
A. In Detroit.
Q. Then, when you met him at the station, where did you go with him, if anywhere?
A. I brought him back to my home.
Q. Did he live there with you for a while?
A. He lived there with me for about ten days.
Q. Did he pay you any rent?
A. Yes, he did.
Q. As he paid you rent, did you give him rent receipts?
A. I did.

Mr. Geter: Mark these two rent receipts Defendant [fol. 237] Jennings' Exhibits 2 and 3.

(Said documents were marked Defendant Jennings' Exhibits 2 and 3, respectively, for identification.)

Mr. Geter:

Q. I show you, first, Defendant Jennings' Exhibit 2 marked for identification and ask you if you will examine that and if that bears your signature?

A. That's right.

Q. And I show you Defendant Jennings' Exhibit 3 and ask you if that bears your signature?

A. That's right.

Q. When did you affix your signature to these receipts?

A. The first receipt I affixed on the day he came there, and the second one was about two days before he left.

Q. Did you see Jennings on each day that he was there?

A. Yes. He was with me quite a bit. By him being a stranger there, I carried him around a bit and tried to intercede for him to get a job in a barber shop. I had a few friends that had a barber shop, and I carried him around quite a bit.

[fol. 238] Q. Were you successful in getting him a job?

A. No. The license in this state would not allow him to work until the change had been made over.

Q. Did you see Jennings in Detroit on May 24th?

A. Yes, I did.

Q. And on May 25th?

A. Yes, sir.

Q. Did you talk to him each day?

A. He was right with me every day.

Q. And, by the way, when did you come to Chicago?

A. I came to Chicago about Tuesday morning of the twenty-eighth, about three o'clock in the morning.

The Court:

Q. The twenty-eighth of what?

A. Of December.

Q. This last December?

A. Yes, sir.

Mr. Geter:

Q. And have you been here ever since?

A. I have been here since last Tuesday, three o'clock in the morning.

Mr. Geter: You may cross examine.

Cross-examination.

By Mr. Brown:

Q. What is your business?

Mr. Geter: Just one more question, Mr. Brown, please.

[fol. 239] Direct examination (Continued).

By Mr. Geter:

Q. What did you do with these receipts after you signed them, Mr. Hughes?

A. I give them to Talbert Jennings.

Q. Have you seen him since that time until the present time?

A. No, I haven't.

Mr. Geter: That's all.

Cross-examination.

By Mr. Brown:

Q. What is your business, sir?

A. I have a rooming house and a for rent barber shop. We rent chairs out by the week.

Q. What part of Detroit is that: 1726 Saint Antoine?

A. It's in what we call the loop.

Q. In the loop district?

A. That's right.

Q. How big a rooming house do you have?

A. Ten rooms.

Q. Is it in one building?

A. That's right.

Q. What kind of a building?

[fol. 240] A. It's a two story building. It has a club downstairs and rooms up over it.

Q. What kind of a club?

A. It's the Elcino Club.

Q. And what is that?

A. It's a club where there is entertainment and cabaret.

Q. Is that yours?

A. No, it isn't.

Q. And you have the premises about that?

A. Yes, sir.

Q. And in that premises you have ten rooms?
A. That's right.
Q. Was that originally a one flat?
A. No, it was four flats; but when the club moved downstairs, they taken part of the rear to make lavatories——

Q. (Interposing.) Just wait until we get the stack out. All right, go ahead.

A. The club that moved downstairs taken part of the rear of the building to make lavatories, so they made it all one flat upstairs after that.

Q. You mean the casino used to have rooms upstairs?
[fol. 241] A. No. They removed their lavatories upstairs in the rear.
Q. Lavatories?
A. Toilets.
Q. In the rear of your rooming house?
A. That's right.
Q. Do they use the rooms up there, too?
A. No, they can't. It's a different address altogether. Theirs is 1730 and ours is 1726.
Q. Do they send customers up to you?
A. No. If they are entertainers who want a room and we have one, they stop with us upstairs.
Q. What do you mean by "us"?
A. My partner and I.
Q. What is your partner's name?
A. Percy Williams.
Q. And how long has that been your business?
A. Oh, maybe ten or fifteen years, I guess.
Q. Steady?
A. That's right.
Q. You have always been right there?
A. I have been on the corner thirty-five years.
Q. I say, you have always been right there?
A. That's right.
Q. You haven't lived in any other city?
A. Oh, yes. I wasn't born there.
[fol. 242] Q. I mean during that period.
A. No.
Q. Now, who is this cousin that you speak of?
A. Not my cousin. It is Talber- Jennings' cousin.
Q. Who is it?
A. A lady by the name of Nettie Smith.

Q. Nettie Smith?
A. Yes.
Q. Well, how do you know Nettie Smith?
A. I have known Nettie Smith for some five or six years.
Q. The question is: how do you know her?
A. She came to Detroit and I met her in Detroit. She's stopped at my place.
Q. So that you have rooms for rent to men and women there?
A. That's right; to anyone.
Q. Is she a married woman?
A. Yes, she is.
Q. Did she come there alone?
A. The first time she came with her husband.
Q. And, then, she's been there alone, is that it?
A. That's right.
Q. Do you know where she lives in Chicago?
A. Yes, I do.
[fol. 243] Q. Where?
A. On Saint Lawrence.
Q. Where?
A. I think it's 4915.
Q. Is that where you have been staying since you have been here?
A. That's right.
Q. And that's the home of Talbert Jennings, isn't it?
A. I don't think so. I couldn't tell you.
Q. Where did he live?
A. I don't know where he lived.
Q. How far is Detroit from Chicago?
A. Oh, I presume about three hundred miles.
Q. You say you came here on December 28th?
A. That's right.
Q. You have been here ever since?
A. That's right.
Q. Why?
A. Why, I came over here to testify in this case, so it would be too expensive for me to run backward and forward.
Q. How much would it be?
A. How do you mean, "How much"?
Q. That's what I mean.
A. Train fare?

[fol. 244] Q. Yes.

A. I guess backward and forward would run about twenty dollars.

Q. Well, don't you know?

A. Not exactly.

Q. Why?

A. Because I don't know.

Q. Did you pay your fare to come here?

A. I certainly did.

Q. Do you know how much you paid?

A. $17.54.

Q. Is that for a round trip?

A. No, sir; one way.

Q. One way?

A. Yes, sir.

Q. How long did it take you to get here?

A. It took me about an hour.

Q. On the train?

A. On the plane.

Q. You say you came on plane, then?

A. That's right.

Q. And you could have gone back for $17.54, could you?

A. That's right.

Q. And in one hour?

A. That's right.

[fol. 245] Q. December 28th was last Tuesday, was it?

A. Last Tuesday morning.

Q. Do you do any other work in Detroit other than run that rooming house?

A. Not at the present.

Q. When did you do any other work last?

A. Well, I have worked ever since I've been there at numerous jobs.

Q. Did you ever buy and sell jewelry?

A. No, sir. I haven't been that fortunate.

Q. What other kind of work have you done there?

A. Well, I've worked as a process man; I've worked in factories; I've did porter work; I've worked for an insurance company.

Q. When was the last time you did work other than run the rooming house?

A. I've run the rooming house since the last five years. Previous to that, I worked as a process server.

Q. Process server?

A. That's right.

Q. During the last five years, then, the only thing you have done is run the rooming house?

A. That's right.

Q. And you have a partner for that?

[fol. 246] A. That's right.

Q. And all you have is ten rooms?

A. That's right.

Q. And you both make a living out of that, do you?

A. We do.

Q. Do you employ help there?

A. We do.

Q. How much help?

A. We've got a cook.

Q. One cook?

A. That's right.

Q. You serve meals there?

A. That's right.

Q. Who makes the beds?

A. Well, anyone that gets to them. Why, one of us will make them up. The cook lives with us, so he makes them up like we do.

Q. The cook is a man, too?

A. That's right.

Q. No women employed there?

A. That's right.

Q. Do you have a telephone there?

A. We have.

Q. How long have you known Talbert Jennings?

A. I met Talbert Jennings on May 22nd, 1948.

[fol. 247] Q. That is the first time you ever met him in your life?

A. That's the first time I had ever seen him.

Q. But you knew his relatives?

A. That's right.

Q. How long did you say you had known them?

A. Five years.

Q. And that's just from them coming to Detroit and rooming at your place, is that right?

A. The first time they didn't room at my place. I met them around different places.

Q. Where?

A. Oh, night clubs, and a girl in Detroit that knowed the young lady. She introduced me to her and her husband out at different spots we'd met.

Q. Night clubs?

A. That's right. So I invited them around.

Q. Then, on May 22nd, Talbert Jennings came up there?

A. That's right.

Q. And he had been sent to you by his aunt Nettie Smith?

A. That's right.

Q. And did Nettie call you?

[fol. 248] A. She did.

Q. On the phone?

A. That's right.

Q. And tell you he was coming?

A. That's right.

Q. And he wanted to get a job as a barber?

A. He wanted to find work. He told me he was a licensed barber.

Q. When did he tell you he had worked at it last?

A. Well, I don't think I asked him that question.

Q. You were taking him around to other barbers to get a job for him and you didn't ask him what experience he had recently?

A. He told me he was a licensed barber, and that was enough for me.

Q. That was enough. Whether he had worked ten years or two months ago, it didn't matter?

A. That's right.

Q. You don't lose the touch?

A. That's right.

Q. Are you a barber?

A. No, I'm not.

Q. How do you know whether he loses the touch or not?

[fol. 249] A. I don't know whether, if you walked into the barber shop, you can tell whether he lost the touch or not. Some of them did some pretty bad jobs on me.

Q. But you were taking him around to your friends' shops to recommend him for a job, and you don't know whether, at any time during those trips around Detroit, he said he had worked as a barber in the last month or the last ten years?

A. He told me he had a license as a licensed barber, and I don't know whether he ever cut a head of hair or not.

Q. You don't know from anything what he said to these people that you took him around to?

A. They talked to him, and they seemed to be satisfied.

Q. Tell me the barbers, now, that you took him to in Detroit and give me their address.

A. I took him to the Wolverine Barber Shop at 1720——

Q. (Interposing.) Just a minute, take it easy. The Wolverine Barber Shop?

A. The Wolverine Barber Shop at 1720 Saint Antoine.

Q. 1720 Saint Antoine?

A. That's right.

[fol. 250] Q. That's the one that's practically in your building.

A. It's in the same block. Not the same building, the next building.

Q. Is that the one you said you had an interest in or something?

A. That's right.

Q. Go ahead.

A. The barber shop on Hastings Street. I can't tell you the numbers of them, but they can be located in the telephone directory, I presume; Swanson's.

Q. Hastings Street. Is that Swanson's?

A. Swanson's Barber Shop on Hastings Street.

Q. Is Hastings Street a big street?

A. It's a notorious street in Detroit, so it's pretty well known. It's not so large as your street.

Q. What is it notorious for?

A. For everything. All the different merchants are on that street. They have everything on this street.

Q. Don't you know on what block Swanson's is on?

A. It must be between Elliott. It's in the project there. It's between Elliott and Bruce Street, I'm not positive of that. It's in our project.

[fol. 251] Q. Where else did you take him to?

A. I taken him to Kyle's Barber Shop on Farnsworth.

Q. How do you spell "Kyle's"?

A. K-y-l-e-s.

Q. Where is that?

A. Farnsworth and Beaubin Street.

Q. Spell it.

A. Beaubin; B-e-a-u-b-i-n.

Q. Go ahead.

A. And the barber shop on the west side, I taken him. It's on McKinley. I can't tell you the address of that.

Q. McHenry Street you say?

A. McKinley.

Q. You don't know the name of that?

A. I don't know the name of the barber shop. I just know the fellow that runs it.

Q. What's his name?

A. Edward Jones.

Q. And this barber shop, now, that you have an interest in, the Wolverine. How many chairs does that have?

A. We've got ten in there.

Q. Were they all occupied?

[fol. 252] A. Yes, they stay occupied.

Q. Pardon me?

A. Yes, they stay occupied. They rent the chairs out to the barbers individually.

Q. You couldn't make room for a friend of your cousin's?

A. We'd have to put a new chair in there or take one of the fellows out that's been in there for years.

Q. I say, you couldn't make room for Nettie's boy or relative?

A. I guess in time it would have been done.

Q. There wasn't a barber shop in Detroit that needed a man?

A. Not at the time. And, then, there was some question about his license.

Q. Is that the only work that he told you he could do?

A. He said he would do most anything.

Q. And you couldn't find a job for him in all Detroit?

A. I guess if we had——

Q. You have lived there thirty-five years?

A. Factories.

[fol. 253] Q. Could you have found him a factory job?

A. I guess, possibly, if we had had the time.

Q. Did you try?

A. I never tried.

Q. Why not?

A. The young man run out of money and he had to get back to Chicago.

Q. How do you know he ran out of money?

A. Well, he told me he was sending a message to his girl friend to send him some money.

Q. Did you loan him any?

A. No, I didn't.

Q. And he was there all the time?

A. That's right.

Q. For a whole week, is that right?

A. Yes.

Q. When did you write out these receipts?

A. I think I wrote the first one on the Saturday night that he got in there, when he asked me about a room, and I told him, well, he could room here; the first receipt. And, I think, the second one was about two days before he left there. I think it was the day before a holiday that came along there, Decoration Day, I believe it was. It was [fol. 254] either that or the last day he was there. I just can't remember.

Q. What did you charge for the room?

A. Well, we charge $10.00 a week without board. And the last two or three days there, I think I charged him a dollar a day.

Q. It's $10.00 per week per room?

A. That's right; without the board.

Q. Without board?

A. That's right.

Q. That includes linens, does it?

A. That's right.

Q. And maid service?

A. Well, if you want to call me a maid, why, yes.

Q. Well, somebody that makes up the bed.

A. Service.

Q. And cleans the room out every day?

A. That's right.

Q. Do you rent that building?

A. The building?

Q. Well, the premises.

A. Yes, we do.

Q. What do you pay for it?

A. We pay $65.00 a month.

[fol. 255] Q. Does your partner work there full time?

A. My partner is there all the time. My partner is sick.

Q. He is there all the time?

A. Most of the time. He goes out and comes back. He has diabetes.

Q. Is the cook there full time?

A. The cook is there every day and cooks two meals a day.

Q. Is he on a salary?

A. That's right.

Q. How much?

A. We pay him $2.00 a day and his board.

Q. Two dollars a day for a cook?

A. That's right. The man is seventy years old. He's not a fancy cook.

Q. He's seventy years old and makes the beds and does the cooking?

A. He does the cooking, and we all make beds and mop and scrub.

Q. Now, this exhibit 2. How many days is that for?

A. This was for the first week he was there.

Q. Well, how many days?

A. For seven days.

[fol. 256] Q. What days?

A. He came in on Saturday and this went to the next Saturday.

Q. Was that the twenty-second?

A. The twenty-second was when he arrived.

Q. Would that include the twenty-ninth?

A. He was paid up for the twenty-ninth, too.

Q. What does it say there (indicating)? What is the receipt for?

A. Yes, until the twenty-ninth. From May 22nd until the twenty-ninth.

Q. That included the twenty-ninth, then, did it?

A. That's right.

Q. That would be eight days.

A. Well, on the twenty-second that he come in there, he got in around eleven or eleven-thirty at night.

Q. So you didn't charge him for that night, is that right?

A. Yes, we charged him for it.

Q. Is it $10.00 a week or was it $10.00 for eight days?

A. It was $10.00 for eight days. We didn't charge him for the day of the twenty-second because he came [fol. 257] in there——

Q. (Interposing) Then your rates aren't fixed at $10.00 a week, but the way you make the receipt, is that right?

A. That's right.

Q. Are you sure you didn't make that receipt after you got here?

A. After I got here?

Q. Yes.

A. I'm positive that I didn't make that receipt after I got here.

Q. Now, this receipt, Defendant Jennings' Exhibit 3. What days was that for?

A. That was from the twenty-ninth until June 1st.

Q. Twenty-ninth, thirtieth and thirty-first?

A. Until June 1st.

Q. From the twenty-ninth until June 1st?

A. That's right.

Q. I say, the twenty-ninth, thirtieth, thirty-first and June 1st?

A. He left on June 1st.

Q. Well, four days?

A. He didn't stay that night of June 1st.

Q. The receipt is for four days?

[fol. 258] A. The receipt reads that, but he didn't stay.

Q. Four days for $3.00 and eight days for $10.00. Which is it now? Which is it now?

A. It's eight days for $10.00 and four days for $3.00. The young man didn't have any money.

Q. Now, the young man didn't have any money?

A. At the last part of it. And then he sent and got some money.

Q. The last part he sent and got some money, did you take it from him?

A. I took my $3.00.

Q. Did you give him another receipt?

A. I give him that receipt there for $3.00.

Q. He didn't have any money?

A. He run out of money.

Q. But he got money?

A. I don't know where he got it from, but he told me he got it from his girl friend.

Q. But he got it?

A. He sure did. The money came to me.

Q. Pardon me?

A. The money came to me. I know he got it.

Q. What do you mean it came to you?

A. It came to my house, in care of me, and I signed for it.

[fol. 259] Q. Was it addressed to you?

A. No. It was addressed to Talbert Jennings apply Jimmie Hughes, 1726 Saint Antoine.

Q. How did it come?

A. By telegram.

Q. They brought it right to you?

A. That's right.

Q. They didn't address it to him at your address?

A. It was addressed to him at my address, but apply to Jimmie Hughes.

Q. In care of Jimmie Hughes?

A. That's right.

Q. And the telegraph company gave you money?

A. I signed for it.

Q. And they gave you money?

A. That's right.

Q. The messenger came right to the door with the money?

A. That's right.

Q. Is that the way they do it in Detroit?

A. That's right.

Q. They don't have you come to the office and come for it and get it there?

[fol. 260] A. In your telegram in Detroit they have a check in there. You take the check down there, and then you have to show identification that you are the person that this check is for, and then you sign the check for it.

Q. You say they brought the money for you, and then you say they brought the check to you.

A. A check is money to me, if it comes like that.

Q. You are in court and I want you to tell exactly what happened.

A. I realize that. I'm trying to.

Q. So they didn't bring the money to you, they brought you a check?

A. They brought me a check for the money.

Q. How much was that for?

A. I'm not quite sure. I think it was $47.00.

Q. Knowing, then, that he had $47.00, you still didn't charge him for the room?

A. I did charge him for the room.

Q. Ten dollars a week?

A. I charged him $3.00.

Q. I say, you didn't charge him $10.00 a week then?

A. No. I charged him for the last three days he was there.

[fol. 261] Q. Did you take that up with your partner?

A. I didn't have to take it up with my partner.

Q. Why?

A. It's not necessary because we have been together quite a few years and he believes me and I believe him.

Q. Well, you have got to make that money stretch to pay three people and pay the rent, don't you? There's a living for three people. Neither of you do anything else. You told me you don't do anything else.

A. I haven't done anything for the last five years.

Q. And the other man is sick, I believe, and the cook doesn't do anything else?

A. That's right.

Mr. Geter: Your honor, I think Mr. Brown should ask a question and then get an answer.

Mr. Brown: I got an answer. He said, "That's right."

Q. So you don't get $10.00 a week from the rooms, then, do you?

A. Yes, we do. We just don't put them out if they're a day over, or something like that.

Q. You didn't have to put this man out. He got [fol. 262] $47.00.

A. I don't know whether he knew he was going to get $47.00 or not.

Q. But he did get it, and then you say you gave him the receipt?

A. That's right.

Q. Isn't that right?

A. That's right.

Q. Now, when did he tell you he was going to leave Detroit?

A. He told me that he would have to leave because he was running short of money. I think it was on Saturday, the day before Decoration Day. I don't know whether it was Saturday or Sunday. It was the day before Decoration Day.

Q. That's when he told you he had to leave?

A. Yes.

Q. Decoration Day was what?

A. It was the 30th of May, isn't it?

Q. I'm asking you.

A. The last day of May.

Q. Thirty days has September, April, June and November, all the rest have thirty-one except February, when I was in grammer school.

[fol. 263] A. The 31st day of May, then.

Q. So he told you the day before Decoration Day that he had to leave the next day?

A. That's right.

Q. Did he leave the next day?

A. He left on June 1st.

Q. But he told you that he had to leave the next day?

A. Yes. He had to send and get some money because he had to leave.

Q. So did you make a receipt for him at the time that he said he had to leave?

A. No.

Q. Then why did you date the receipt May 29th?

A. That was the last time that his first week was up, on May 29th.

Q. Why did you give him a receipt, then, if he didn't have any money on May 29th?

A. He had money when he first come. He paid in advance.

Q. But I thought you said you didn't give him this receipt until he got the $47.00 and paid you?

A. There is two receipts there.

Q. I'm talking about the second one.

A. The second one I gave him when he got his money.

[fol. 264] Q. So he got the money when?

A. On the 1st of June.

Q. Then why didn't you give him a receipt dated the 1st of June?

A. I dated it back to the time he owed me.

Q. Why should you date receipts back?

Mr. Geter: Object to that, Judge, why he should.

The Witness:

A. The man owed me——

The Court: The objection is overruled.

The Witness:

A. If the man owed me from the twenty-ninth up until the day he left, maybe he didn't get any money.

Mr. Brown:

Q. If he paid you today, would you still date it back to the twenty-ninth, saying he paid you money?

A. If he paid me money, I would date it back to the time from the time he left.

Q. Is your renting of rooms under government control?

A. The building is under control.

Q. Your renting rooms?

A. No, it is not.

Q. You can charge any rent you want?

A. We can't go over.

Q. Then you are under government control.

[fol. 265] A. We have never had any complaints.

Q. They look at your books, do they?

A. Certainly.

Q. And you make receipts for any day you wish to make them?

A. Not for any date.

Q. The receipt is dated the day you receive money, is that right?

A. That's right.

Q. But you dated this the twenty-ninth?

A. I dated it from the time that his last rent was up until the time he left.

Q. But you did date it May 29th?

A. I did.

Q. And at that time did you know he was going to stay until June 1st?

A. I dated the receipt on June 1st, when he was leaving.

Q. This is dated May 29th, isn't it?

A. That's right.

Q. Then you dated it May 29th?

A. May 29th up until June 1st.

Q. So when you wrote this May 29th to June 1st, you wrote it on May 29th?

[fol. 266] A. I wrote it on June 1st.

Q. So you don't date the receipt on the date it bears?

A. I dated this receipt on June 1st, and it was from May 29th.

Q. When did you date this May 22nd?

A. On May 22nd, the day he paid me his first rent; the date I told him how much it would be.

Q. So you date it from the day they pay the rent?

A. That's right.

Q. Did you date this on May 29th?

A. I dated that May 29th to June 1st.

Q. Why didn't you date it on the day he paid you, June 1st?

A. I did date it June 1st.

Q. No. You dated it May 29th.

A. That's when he was supposed to pay me.

Q. Do you give every one of your tenants a receipt?

A. All the time?

Q. Yes.

A. That's right.

Q. And right at the time they pay you?

A. Whenever they pay their rent, why, they get a [fol. 267] receipt.

Q. When were you notified that you were going to be a witness in this case?

A. Oh, I was notified some five months ago.

Q. Five months ago?

A. Yes.

Q. You didn't come here five months ago, did you?

A. No. They didn't tell me to come. They said would I come when the case came up. So previous to that, I think the case has been up two or three times, and they have notified me each time and then notified me again that it was put over until another date.

Q. And you knew at the time that you came, December 28th, that you could get here in an hour on a plane, didn't you?

A. Oh, Yes. I told them that.

Q. Why did you come December 28th, then?

A. I was notified the day before that. I got a telegram. Maybe, I guess it was around eight or nine o'clock at night.

Q. From whom?

A. From Mrs. Jackson.

Q. Evelyn Jackson?

A. Evelyn Jackson.

Q. She knew where to telegraph you, didn't she?

[fol. 268] A. Yes, she did.

Q. What did she say?

A. She told me I was needed, and to come at once, and to be here.

Q. Come at once?

A. To be here by ten o'clock in the morning at the Cook County Criminal Court.

Q. On December 28th, is that right?

A. That's right, on December 28th.
Q. Did you get here by ten o'clock December 28th?
A. I did.
Q. You have stayed here ever since?
A. That's right.
Q. At Smith's house?
A. That's right.
Q. Did you talk to Mr. Geter?
A. Yes, I have.
Q. When did you talk to him first?
A. Well, I think I talked to him after the court was over the first day I was here. That was on December 28th.
Q. You haven't been doing any work since you got here?
A. I have come here every day.
[fol. 269] Q. Were you promised your expenses?
A. That's right.
Q. How much?
A. They didn't make any promise to me about how much. They told me they would pay my expenses and see that I would have somewhere to stay here.
Q. What were your expenses to be?
A. My expenses would just be my train fare or my plane fare.
Q. Nothing for the days you have spent here at all?
A. Well, the people here, Mrs. Smith, has been taking care of me.
Q. What?
A. Mrs. Smith has been taking care of me; Mr. and Mrs. Smith.
Q. But who is making the beds in Detroit?
A. Well, somebody is making them.
Q. What?
A. Somebody is making them, I'm not there. I couldn't swear who is making them.
Q. Is somebody going to get paid while you are gone?
A. I don't know. They possibly will.
Q. Who is making out the receipts?
Well, did I understand you to say that when Jennings [fol. 270] came to Detroit you met him at the station?
A. That's right.
Q. Why?
A. Because Mrs. Smith told me he was a perfect stranger, and that was the first time he had ever been in Detroit. I

know how Detroit is. It's not like this city. You can easily get lost in Detroit.

Q. It's a big city?

A. No, not like this one. This is a big city to me.

Q. Did anybody meet you at the plane?

A. Yes.

Q. Who?

A. Mrs. Smith.

Q. Here in Chicago?

A. That's right.

Q. And how far is the station from your place in Detroit?

A. Oh, I'd say about two miles, three miles.

Q. Did you drive down there?

A. That's right.

Q. What time did you meet him there?

A. I met him there—I was down there about eleven o'clock. I think he got in around eleven-thirty or eleven-fifteen.

[fol. 271] Q. Did you take him to the train when he came back?

A. When he left Detroit?

Q. Yes.

A. Yes, I did.

Q. When?

A. On June 1st.

Q. What time?

A. Oh, I taken him to the train, I guess, around about,—it was either between two or four in the afternoon. I can't say just the exact time.

Q. When you came by train, did you check to see how long it takes to get here?

A. No.

Q. Do you know how long it takes to get here by train?

A. No, I don't.

Q. You never came by train?

A. I did come by train, but it's been some time ago, and it took a long time; twenty years ago. It seems to me I rode all day.

Q. What time did you get that money order, do you know?

A. The money order must have come around sometime after twelve because it wasn't very long after that that he left.

Q. You say it came about a quarter after twelve?

[fol. 272] A. I don't say just exactly, but it was sometime after twelve; and it wasn't long after that that he left.

Q. Could it have been closer to three?

A. I couldn't say. I don't know.

Q. You couldn't say?

A. No.

Q. Did you ever receive any money orders from Chicago before?

A. Not me.

Q. Do you know how far you are from your telegraph office?

A. In Chicago?

Q. Three hundred miles, you told me, didn't you?

A. Yes. In Detroit I'm three hundred miles from the telegraph office.

Q. How far are you from the telegraph office in Detroit?

A. Now?

Q. No, not now. When you are in the Antoine address.

A. How far is the telegraph office from my home?

Q. That's what I want to know.

A. Oh, I'm about a mile and a half.

Q. How did they deliver the telegram to you?

A. By boy.

Q. On foot?

[fol. 273] A. Well, I don't know. He may have had a bicycle. That's what they usually have.

Q. He had a bicycle. He brought the telegram to you, and it had a check or some sort of an order for payment on it?

A. Yes.

Q. What did you do with it?

A. I give it to Talbert Jennings.

Q. Was he waiting right at the door with you for it?

A. I think he was downstairs when it came.

Q. In the casino?

A. Downstairs in the club.

Q. Without any money?

A. That's right.

Q. What was he doing in the casino without any money?

A. I don't know. Probably looking around.

Q. Did you go down looking for him?

A. No. I think he seen the boy come in.

Q. How do you know he saw the boy come in?
A. He came right up after it.
Q. Then what did you do?
A. I handed it to him.
Q. Then what?
A. That was all. Seeing that, he got it cashed.
[fol. 274] Q. Where?
A. I carried him to a friend of mine, and he cashed it.
Q. Pardon me?
A. I carried him to a friend of mine, and he cashed it.
Q. You mean you don't have to take that back to the telegraph office?
A. No, not a telegraph check, you don't.
Q. Where did you take him to get it cashed?
A. Down to the bowling alley.
Q. Where is that?
A. On Adams Avenue. It's around the corner from me and across the street.
Q. Adams Avenue?
A. That's right.
Q. You sure gave this boy service, when he was there for three bucks for four days.
A. I liked him.

Mr. Geter: I object to this and move that it be stricken, your honor.

The Court: It may be stricken.

Mr. Brown:

Q. How did you take him over to the bowling alley?
A. We just walked over there. It's just about a half a block.
[fol. 275] Q. Did you help him pack his bags?
A. No.
Q. Did he have a bag?
A. Yes, he did.
Q. How long did it take him to pack his bag after he got the letter at your house?
A. I think his bag was packed when he got the letter, I didn't go into his room, but I'm quite sure it was.
Q. He didn't have it down in the casino with him waiting for the boy?
A. No.
Q. It was still upstairs?

A. That's right.

Q. Then you went around to the bowling alley, and how far did you say it was on Adams Avenue?

A. About a block.

Q. Did you walk?

A. That's right.

Q. Then you had to come back to the hotel again, is that right?

Q. Then what did you do when you got back?

A. He got ready to get a cab, and we went to the station.

Q. I thought you took him in your car?

[fol. 276] A. I don't have a car.

Q. How did you meet him at the railroad station?

A. I went down on the street car and came back in a cab.

Q. You left your hotel and took a street car to the railroad station to meet a twenty-six year old man because he might get lost in Detroit, is that right?

A. That's right.

Q. And you want this jury to believe that?

Mr. Geter: I object to that, Judge.

The Court: The objection is sustained.

Mr. Brown:

Q. Had you ever seen him before?

A. Never seen him before.

Q. How did you find him in that big station?

A. Well, he was described to me over the telephone.

Q. How was he described to you?

A. Being a tall light boy.

Q. A tall light boy?

A. That's right.

Q. And that's all you had to look for at the station?

A. That's right.

Q. A tall light boy in Detroit?

A. That's right.

Q. How many million people live in Detroit?

[fol. 277] A. Well, I think something like a million and a half or a million and three-quarters.

Q. How many railroad stations in Detroit?

A. There is three.

Q. How did you know which one to go to?

A. It says Michigan Central.

Q. How did you know which one to go to?

A. She told me Michigan Central.
Q. Who told you?
A. Mrs. Smith.
Q. Nettie Smith?
A. That's right.
Q. Told you to go to the Michigan Central and look for a tall light boy?
A. Coming in on the train from Chicago.
Q. How many trains come from Chicago?
A. We have quite a few.
Q. Did you look at every one?
A. No.
Q. What one did you look at?
A. The one that was supposed to get in at 11:30.
Q. And this is May 22nd?
A. That's right.
Q. You remember that train was supposed to be in at 11:30?
A. That's right.
[fol. 278] Q. Did it get in on time?
A. I'm not positive. I got in there at eleven o'clock. I'm not positive whether the train got in on time or not.
Q. How many people did you question before you found the tall light boy?
A. I don't think I questioned anybody. I stopped one fellow and asked him did he see a light colored boy on the coach with him, and a few minutes later Talbert walked up with his bag.
Q. Walked right up to you?
A. That's right.
Q. Had he ever seen you before?
A. Never in his life.
Q. You say that train was due at 11:30. Was that A. M. or P. M.?
A. P. M.
Q. And you took a street car down there?
A. Yes. The depot car runs a half a block from my house.
Q. Did you take anybody with you?
A. No.
Q. What kind of baggage did he have?
A. Just an ordinary suitcase.
Q. A big one or a little one?
[fol. 279] A. It was a pretty big size. What you might call a two-suiter.

Q. But when you went back to the station with him on June 1st, you took a cab?

A. Yes. I think we were a little late.

Q. A little short of money, too, weren't you?

A. I wasn't short of money.

Q. No. I mean the boy that you gave a break to on the rent here on account of he was short of money. And then you took a cab with him, is that right?

A. That's right.

Q. In spite of the fact that there was a street car a short distance away that goes to the depot?

A. There was a difference in the time of day. Traffic was pretty heavy.

Q. Who paid for the cab?

A. He did.

Q. How did you get back to the lodging house, then?

A. On the street car.

Q. Now, inasmuch as he was taking a cab on June 1st, did you still feel, in that big city, that he might get lost going to the depot?

A. No. But I liked him and I wanted to see him off. [fol. 280] Q. You just liked him?

A. That's right.

Mr. Brown: That's all.

Mr Geter: Just a minute.

I want to offer these in evidence, your honor, as Defendant Jennings' Exhibits 2 and 3, these being the receipts identified by the witness.

The Court: No objection?

Mr. Brown: No objection, your honor.

The Court: They may be received and marked accordingly.

(Said documents so offered and received in evidence were marked Defendant Jennings' Exhibits 2 and 3, respectively, and are in words and figures as follows:)

Mr. Geter: That's all, you may step down.

(Witness excused.)

[fol. 281] SUPPLEMENTARY EXHIBIT #2 (part two)

[Title omitted]

Before Judge Ashcraft and a Jury.

Indictment No. 48-1247

Tuesday, January 11th, 1949,
10:00 o'clock A. M.

Court met pursuant to adjournment.
Present: Mr. Brown, Mr. Phillips, Mr. Geter.

(And thereupon the following proceedings were had in the presence and hearing of the jury, to-wit:)

Mr. Brown: Richard Ayers.

RICHARD AYERS, a witness called on behalf of the State, in rebuttal, having been previously sworn, was examined and testified as follows:

Direct examination.

By Mr. Brown:

Q. Will you state your name, sir?
A. Richard Ayers; A-y-e-r-s.
[fol. 282] Q. Where do you live, sir?
A. 710½ Austin Boulevard, Oak Park.
Q. Your occupation?
A. Police officer of the Village of Oak Park.
Q. How long have you been a police officer?
A. Approximately a year and a half.
Q. Prior to that time?
A. Police officer of the Chicago Union Station.
Q. How long?
A. About two years.
Q. Prior to that?
A. United States Army.
Q. How long?
A. Six years.
Q. Now, in May of 1948, were you a police officer of the Village of Oak Park?
A. Yes, sir.

Q. In June of 1948, were you a police officer of the Village of Oak Park?

A. Yes, sir.

Q. Calling your attention specifically to the morning of June 6th, were you on duty?

A. Yes, sir.

Q. What was your tour of duty or your hours of duty?

[fol. 283]. A. Eight A. M. to four P. M.

Q. June 6th?

A. Yes, sir.

Q. What was your particular assignment on that tour of duty?

A. Station man.

Q. Meaning what?

A. I stayed inside the station and took care of the lockup, and booked arrests at the desk, and that's about all.

Q. Where is the lockup in the Oak Park Police Station?

A. It's below the sergeant's office. It's in the basement.

Q. What does that consist of?

A. Four cells, a kitchen, a shower room.

Q. Now, on that day, and on that tour of duty from eight A. M. to four P. M., did you at any time see any defendant molested by any person while in your lockup?

A. No, sir.

Q. Or while on the floor where your lockup is located?

A. No, sir.

Q. When the prisoners are brought to the lockup, who [fol. 284] brings them to the lockup?

A. The station man.

Q. And you are referring to yourself?

A. Yes, sir. On that particular date I was.

Q. In other words, if the lieutenant or captain or sergeant had a prisoner upstairs and wanted to put him in the lockup, who would go for him during that day, June 6th, between eight A. M. and four P. M.?

A. They'd come to me, and I'd get the keys, and bring him up.

Q. Then you lock them in the cell, and they are in your custody and control until they are brought upstairs again?

A. Yes, sir.

Q. Did you see any defendant, while he was in your custody and while he was on your basement floor in the lockup, with handcuffs behind his back and pulled up to some sort of an arrangement in the ceiling?

A. No, sir.

Q. Did you see anyone strike or beat any one of these defendants, pointing out Jennings, now, and Morgan, on June 6th, 1948?

A. No, sir.

Q. Were those men fed while they were there?

[fol. 285] A. I fed them in the morning, sir.

Mr. Brown: You may cross examine.

Cross-examination.

By Mr. Geter:

Q. Mr. Ayers, how many prisoners did you have down there when you arrived at your place on June 6th, the morning of June 6th?

A. As I recall it, we only had two of them.

Q. You had two prisoners?

A. As I recall, yes.

Q. Who were they?

A. I believe it was Morgan and Smith. I'm not even sure about Smith.

Q. Morgan and Smith?

A. Yes. I'm not sure about Smith.

Q. Which one do you call Smith?

A. Smith's the little fellow on the end with the mustache. (Indicating).

Q. This little fellow here (indicating)?

A. That's right.

Q. In the brown suit. And Morgan is the gentleman with the gray suit, is that right?

A. Yes, sir.

Q. In the middle here (indicating)?

[fol. 286] A. Yes, sir.

Q. Was Jennings down there that morning?

A. No, sir. Jennings was in River Forest.

Q. So, according to your calculation, you had two vacant cells there when you arrived, is that right?

A. As I recall it. I wouldn't swear to that last statement because I'm not sure whether we had Smith or not.

Q. Your are not sure you had Smith?

A. No, I'm not.

Q. Then, if you didn't have Smith, you had three vacant cells?

A. It's possible, yes.

Q. You had four altogether, so it's just a little mathematics there.

A. Yes, sir.

Q. When was the last time you had been down to the lockup prior to eight A. M.?

A. I'd say the previous day. I believe I was chauffeur the previous day there, also.

Q. Then you got off at four o'clock on the afternoon of the fifth?

A. Correct.

[fol. 287] Q. Now, when you left that day, was either Smith or Morgan there?

A. Which day are you referring to?

Q. The fifth. When you left on the afternoon of the fifth to go home.

A. No, sir.

Q. In other words, had you seen either of the prisoners prior to that time?

A. No, sir.

Q. So what went on between the time you left at four o'clock on the afternoon of the fifth up until the time you came in, you don't know anything about that?

A. No, sir.

Q. Well, did you see Jennings that morning?

A. On the morning of the sixth, yes.

Q. What time?

A. I believe it was somewhere around ten A. M.

Q. Where did you see him at that time?

A. River Forest happened to call us and asked if we were going to feed the prisoner or if they were to feed him, so they dispatched a squad car over to River Forest and they brought Jennings back.

Q. When they brought him back about ten o'clock, where [fol. 288] did they take Jennings and what did they do with him?

A. He was in the sergeant's office all through the time he was there, and I fed him, and he was then sent back to River Forest.

Q. Did you feed him in the sergeant's office?

A. Yes, sir.

Q. What did you give him?

A. Coffee and sweet rolls.

Q. And did he eat them?

A. He ate all but a half of one, which he put in his pocket and took back.

Q. Took that back to River Forest?

A. Yes, sir.

Q. And you didn't see Jennings any more that day, did you?

A. No, sir.

Q. What happened to him from then on you don't know, is that right?

A. No. He was in River Forest at that time.

Mr. Geter: That's all, Mr. Ayers.

Mr. Brown: That's all.

(Witness excused.)

[fol. 289] Reporter's Certificate to foregoing omitted in printing.

[fol. 290] SUPPLEMENTARY EXHIBIT #3

[Title omitted]

Before Judge Ashcraft and a Jury

Indictment No. 48-1247

Tuesday, December 28th, 1948

Present: Mr. Brown, Mr. Phillips, Mr. Geter.

(And thereupon the following proceedings were had out of the presence and hearing of the jury:)

Mr. Brown: I don't believe this witness has been sworn, Your Honor.

The Court: Swear the witness, please.

FRED ANDERSON, a witness called on behalf of the State, being first duly sworn, was examined and testified as follows:

Direct examination.

By Mr. Brown:

Q. State your name, sir.
A. Fred Anderson.
Q. Fred Anderson?
A. That's right.
Q. Where do you live, Fred?
[fol. 291] A. 4631 Langley.

Mr. Geter: I can't hear.

Mr. Brown:

Q. 4631 Langley?
A. That's right.

The Court: Will you repeat that, please?
A. 4631 Langley Avenue.

Mr. Brown:

Q. How long have you lived there?
A. Off and on ever since I was about twelve, I guess.
Q. What is your business?
A. My dad has a shoe repair shop and I help him.
Q. Where is that located?
A. 5222 State Street.
Q. How long have you been so employed?
A. Ever since I came out of the Army.
Q. Since you came out of the Army?
A. That's right.
Q. Now, on the 6th day of June, 1948, were you in the Oak Park Police Station?
A. The Oak Park?
Q. Yes.
A. No, I have never been in Oak Park.
Q. Oak Park.
A. Oh, yes.

The Court: What date?
Mr. Brown: The 6th day of June.

[fol. 292] Q. Did you, on that day, know Edgar Morgan?
A. Yes.
Q. Do you see him in the courtroom?
A. Yes, I do.
Q. Will you point him out?
A. Over there (indicating).

Mr. Brown: Indicating, for the record, the defendant Edgar Morgan.

Q. Did you see him in the Oak Park Police Station at that time?
A. Yes, I did.
Q. Did you know Officer Hutchison?
A. Yes, I did.
Q. Do you know an Officer Piotter?
A. Yes, I do.
Q. Do you know a Lieutenant Nester?
A. Yes.
Q. Did they discuss with you the matter of some stolen jewelry?
A. Yes, they did.

Mr. Geter: Judge, I am going to object to that question. Let him find out what the conversation was that he had with them, and don't let him suggest to him what they talked about.

Mr. Brown: I am not interested in the conversation. I just want to know if they talked to him about it.
[fol. 293] The Court: All right, he may answer.
The Witness: Yes.

Mr. Brown:

Q. During their conversations with you in the Oak Park police station on June 6th or June 7th, 1948, did these police officers strike or beat you or molest you in any way?
A. No.
Q. Did they——

Mr. Geter: (Interposing.) Wait a minute. I didn't get his answer.
The Witness: No.

Mr. Brown:

Q. How long were you in the presence of those police officers on the sixth or the 7th day of June; specifically, the sixth?

A. That's the day we stood temporary trial, or something.

Q. I don't know about that.

A. It was only a matter of hours.

Q. Pardon me?

A. We came from the County Jail that day to Oak Park.

Mr. Geter: Judge, I can't understand this witness.

The Court: You will have to speak louder.

The Witness: A. I say, on the 6th day of June, I think we came from the County Jail and had a hearing, and, [fol. 294] after the hearing, I was let loose that day.

Mr. Brown:

Q. No. That's the day when you were confronted with Edgar Morgan out there at the police station.

A. Yes?

Q. Well, whatever day it was. Any day you were in Oak Park in the police station, in connection with this jewelry, did any police officer out there lay a hand on you at any time?

A. No.

Q. Did any police officer lay a hand on Edgar Morgan, in your presence, at any time?

A. Not in my presence, no.

Q. Or in another room where you could hear him?

A. No, not as I know of.

Mr. Brown: You may cross-examine.

Cross-examination.

By Mr. Geter:

Q. Mr. Anderson, you were arrested on what date?

A. I couldn't give you the exact date.

Q. You don't remember the date?

A. No, I don't.

Q. Well, how long had you been arrested before you went to the Oak Park police station?

A. I was arrested that afternoon, and I went to the Oak [fol. 295] Park police station that night.

Q. The same night?
A. That's right.
Q. Where were you arrested?
A. 4201 Ellis Avenue.
Q. What is at 4201 Ellis?
A. That's where I was living. My girl stayed there and I was staying there with her at the time.
Q. You were staying at 4201 Ellis?
A. That's right; as well as 6354 Maryland.
Q. Who arrested you?
A. Sergeant Hutchison and——

The Court: You will have to speak a little louder. I don't think the reporter can get it all.

The Witness:

A. Sergeant Hutchison and Sergeant Myles.

Mr. Geter:

Q. And did you know them prior to that time?
A. No.
Q. And they arrested you at this address. Where did they take you?
A. First, they took me to 48th Street.
Q. How long did you stay at 48th Street?
A. I didn't get out the car. Then they took me down to 11th Street.
Q. Where did they take you from 48th Street?
[fol. 296] A. To 11th Street.
Q. How long did you stay at 11th Street?
A. Until that night.
Q. About how long that night?
A. I couldn't say exactly. I had no watch.
Q. Approximately.
A. About one o'clock, I think, they took me to Oak Park. I don't know.
Q. You know Officer Piotter?
A. Yes, I do.
Q. And you know Officer Hutchison?
A. Yes, I do.
Q. You had lunch with them today, didn't you? Did you have lunch with them today?

A. That's immaterial, isn't it? Well, yes.
Q. What do you mean it's immaterial?

Mr. Brown: He answered, "yes." He said, "yes."

Mr. Geter:

Q. How did you happen to come over here today?
A. Subpoenaed.
Q. Who subpoenaed you?
A. I imagine the State did. I don't know.
Q. You imagine the State did. When did you get your subpoena?
A. I don't know much about law. All I can tell you is [fol. 297] what I know.
Q. How did you happen to come over here?
A. I had a subpoena to appear here.
Q. And when you came here, whom did you see?
A. Who did I see?
Q. Yes. Who did you go see?
A. Well, I went down first to see Mr. Brown.
Q. Yes?
A. (Continuing:) And to find out where I was supposed to appear at. He said here.
Q. Who did you talk to, besides Mr. Brown, about this case?
A. About the case?
Q. Yes.
A. I discussed the case with no one.
Q. You didn't say a word to Officer Hutchison?
A. About the case?
Q. Yes, about the case.
A. No.
Q. It wasn't mentioned at all?
A. I wouldn't say it wasn't mentioned at all, but it wasn't anything said.
Q. Did you talk to him or didn't you talk to him?
A. Of course, I talked to him.
Q. Of course, you talked to him?
[fol. 298] A. Yes, I did.
Q. You can just say "yes." That's all right. Did you talk to Officer Hutchison about the case?
A. No, I did not discuss the case with anyone.
Q. Did you talk to Lieutenant Nester about the case?
A. No.

Q. And you were at 11th Street until what time did you say?

A. I'd say approximately twelve o'clock, eleven o'clock, something like that.

Q. Eleven or twelve o'clock?

A. Yes.

Q. Do you remember what day of the week that was?

A. No, I don't.

Q. You don't have any idea of the day of the week?

A. No.

Q. How did you get from 11th Street to Oak Park?

A. Well, in an Oak Park police car.

Q. How's that?

A. An Oak Park police car.

Q. Who was with you?

A. Well, there was Morgan and Lieutenant Nester, Sergeant Hutchison and the other officer. I couldn't recall [fol. 299] his name.

Q. And did they have your handcuffed to Morgan?

A. Yes, they did.

Q. And then, when they got you out to the Oak Park police station, where did they put you?

A. Well, I sat up in front, upstairs.

Q. You sat up front, upstairs?

A. Yes.

Q. Where did they put Morgan, do you know?

A. He sat with me until they got ready to talk to us.

Q. Did they take you out first to talk to you?

A. Yes. I think so.

Q. Did they handcuff Morgan to the chair?

A. I couldn't say, I don't know. I wasn't there.

Q. But they did take the handcuffs off of you?

A. They had to for me to go with them.

Q. I say, they did?

A. Yes.

Q. Where did they take you to talk to you?

A. They took me into the Lieutenant's office.

Q. Lieutenant Nesfer. Did they sit you down in there and ask you some questions?

A. Why, yes.

Q. Who talked to you?

[fol. 300] A. Lieutenant Nester.

Q. And nobody, you say, at that time or at any other time while you were in custody laid a hand on you?

A. That's right.
Q. Didn't touch you?
A. That's right.
Q. You remember you're under oath.
A. I know that.
Q. And you're telling the truth, the absolute truth?
A. Yes.
Q. And after they got through talking to you, where did you go?
A. Downstairs to a cell.
Q. Did they let you go home?
A. Of course not.
Q. Of course not?
A. No.
Q. How long did they keep you in there?
A. I stayed at Oak Park three or four days, and I stayed at the County Jail ten or twelve or fifteen days, something like that.
Q. Did they ever take you before a Justice of the Peace?
A. A judge?
Q. Yes, a judge, anywhere?
A. Yes, they did.
[fol. 301] Q. At no time during this whole tenure, that is, during the time that you left,—you were arrested at 42nd and Ellis—did anybody, any police officer, touch you; that is, lay a hand on you?
A. No.
Q. Did you sign any statement for these police officers?
A. Yes, I did make a statement when I was in Oak Park.
Q. And when was that?
A. I don't know about the days now. I don't know the dates.
Q. How long after you had been taken over there?
A. That night, I think. That night or morning after we got to Oak Park.
Q. That night or morning?
A. Yes.
Q. Did you sign this statement that you made free and voluntariiy?
A. Yes, I did.
Q. Who did you turn that statement over to?
A. Lieutenant Nester.
Q. Lieutenant Nester?

A. Yes, sir.

Q. Did they promise you any reward, or anything, for signing this statement?

Mr. Brown: Object as being immaterial, Your Honor.

[fol. 302] The Witness:

A. Of course not.

Mr. Geter:

Q. What?

A. No.

Q. It doesn't irritate you to answer, does it?

A. No, it doesn't.

Q. And everything that you did, in regard to making your statement at the Oak Park station, was because you did it free and voluntarily? Lieutenant Nester asked you some questions and you said, "All right, I want to make a statement"?

A. I answered to the best of my ability.

Q. The best of your ability?

A. Yes.

Q. Has anybody promised you anything for testifying out here?

A. No.

Q. You are just doing it because you are doing your civic duty, is that right?

A. I had a subpoena and I had to appear otherwise I wouldn't have been here.

Q. Did you see Morgan after Lieutenant Nester talked to you? Did you see Morgan after that?

A. You mean the first night after I was in Oak Park?

Q. Did you see him anytime after you left him to go into this room to talk to Lieutenant Nester?

[fol. 303] A. Well, yes, I saw him.

Q. Did you notice any marks or bruises about Morgan?

A. No, I couldn't say I did.

Q. Well, did you?

A. No, not as I know of. I didn't notice him that closely.

Q. You didn't notice him?

A. No.

Q. Were you close enough to see any?

A. If they were visible I would have probably saw them.

Q. I was going to say, if he had marks or bruises about him, were you close enough to see them?

A. Yes, I was.

Q. Where was that?

A. I went down first downstairs and he came down after I did in the cell.

Q. They brought him down after they brought you?

A. Yes, that's right.

Q. Did you have any conversation with Morgan down there after they brought him down?

A. No, we didn't say much.

Q. You know a man by the name of Sidney Barr, don't you?

[fol. 304] A. He owns the Barr Jewelry Store, doesn't he?

Q. You know a man by that name, don't you?

A. Yes. I heard his name mentioned.

Q. Didn't Sidney Barr approach you, when you were brought into the station, and say you were the man that tied him up?

A. Yes, he did.

Q. You say, "Yes"?

A. Yes, he did.

Mr. Brown: Object as being immaterial and ask that the answer be stricken, Your Honor. It has nothing to do with this hearing at all.

The Court: The motion is denied.

Mr. Brown: Your Honor, I would like to be heard on that.

The Court: I believe you asked him about questions that were asked him in the Oak Park Police Department.

Mr. Brown: I asked him if any police officer struck him at any time. That's all this hearing is.

The Court: Then you asked him if he had a conversation with the police.

Mr. Brown: I asked him if he had a conversation with the police concerning jewelry, and I wasn't interested in what it was; just merely to identify this as being the [fol. 305] proper party.

Now, the only hearing here, Your Honor, is to determine whether or not Morgan was struck by the police or whether this man was struck in the presence of Morgan or in a room next to him where he could hear him screaming and yelling,

as he testified. That is the only hearing before this court, not some collateral issue.

The Court: I could see where it might affect his credibility, whether or not he was identified in the case.

Mr. Geter: Absolutely.

Mr. Brown: It is going to test this man's credibility, Your Honor, whether somebody else identified him? How could that possibly test this man's credibility or affect this man's credibility in any way?

Mr. Geter: It might affect the answers that he made, that's all I can say. It will affect the answers that he has made or is going to make.

The Court: I could see where it would.

Mr. Brown: All right.

Mr. Geter:

Q. Did you hear anybody making any noises or outcries, as though they were being beaten or struck, while you were in the Oak Park police station?

[fol. 306] A. No.

Q. I didn't understand that.

A. No.

Q. Everything was peaceful and quiet around there, isn't that right?

A. Yes, as far as I know.

Q. About how many police officers were around there, Mr. Anderson, during the time you were at Oak Park?

A. I couldn't say that. After all, it's a police station and they continued to come in and out.

Q. Well, how many people were around when you were being questioned?

A. Oh, three or four or five, something like that.

Q. Three or four or five?

A. Yes.

Q. Of course, you were talking to Lieutenant Nester?

A. I don't mean that these people were in the room, but they were around there. Like some sergeant—I don't know his name—Sergeant Hutchison and another fellow.

Q. Were any of these officers close enough to hear what was said to you at any time, outside of Lieutenant Nester who was asking you these questions?

A. Well, yes.

[fol. 307] Q. Who?

A. Sergeant Hutchison's partner. I don't know his name.
Q. Piotter?
A. Piotter. He was present there.
Q. And, you say, you made a statement. Who typed out this statement for you?
A. I don't recall.
Q. You don't recall the officer?
A. No, I don't.
Q. You were present answering questions, weren't you?
A. Yes, sir. I can't think who it was. I don't remember that.
Q. You can't remember who typed it?
A. No, I don't. I think it was Sergeant Hutchison who typed it.

Mr. Geter: I think that's all.
Mr. Brown: That's all.

(Witness excused.)

[fol. 308] Reporter's Certificate to foregoing omitted in printing.

[fols. 309-309a] IN THE CRIMINAL COURT OF COOK COUNTY

P. G. 61

TALBERT JENNINGS, Petitioner,

vs.

PEOPLE OF THE STATE OF ILLINOIS, Respondent

MOTION TO STRIKE

Now comes the respondent, People of the State of Illinois, by John S. Boyle, State's Attorney of Cook County, Illinois, and respectfully moves the Court to strike the second amended petition filed herein and to dismiss the proceeding for the following reasons:

1. Petitioner is barred from obtaining relief on the grounds alleged in his petition for the reason that the claims were conclusively adjudicated in full hearing to petitioner and decided against him, the claims therefore being res judicata and not within the jurisdiction of the

Court to hear or to use as a basis for granting petitioner relief.

2. The allegations of a denial of petitioner's constitutional rights are mere conclusions, unaccompanied by affidavit of facts or documentary evidence having possible probative force sufficient to require an answer or hearing on any issue of denial of petitioner's constitutional rights in the proceedings which resulted in his conviction.

3. The facts alleged by petitioner would not, if true, constitute a showing of a substantial denial of petitioner's constitutional rights in the proceedings which resulted in his conviction.

Wherefore, respondent prays judgment that the petition as amended be stricken and the proceeding be dismissed, or, in the alternative, for time to answer.

People of the State of Illinois, John S. Boyle, State's Attorney of Cook County. Charles W. Corcoran, Assistant State's Attorney.

[fol. 310] In Criminal Court of Cook County

[Caption omitted]

Order Dismissing Petition—November 1, 1950

This day come the said Petitioner by his Counsel and the said Respondent by his Counsel also comes.

And the Court hearing Counsel in support of the Respondent's Motion to Dismiss the 2nd Amended Petition, heretofore entered herein, as well as in opposition thereto and being fully advised in the premises doth sustain said Petition and orders that said Petition be and the same is hereby sustained accordingly.

Petition dismissed.

Petitioner to stand on 2nd Amended Petition.

[fol. 311] Clerk's Certificate to foregoing paper omitted in printing.

[fol. 312] WRIT OF COURT, CRIMINAL COURT OF COOK COUNTY

[Title omitted]

PRAECIPE FOR RECORD

To: Honorable Vincent J. Polacki, Clerk. Criminal Court of Cook County, Chicago, Illinois:

The Plaintiff In Error hereby direct that you prepare the following parts of the record in the above entitled cause PC No. 61 in connection with his writ of error to the Illinois Supreme Court:

(1) The Petition as Amended and filed on September 20th, 1950, with all supporting documents, as filed in the Criminal Court of Cook County and Marked Exhibits "A", "B", "C", "D", "E", "F", "G", "H"; Supplementary Exhibits #1 (part one, two and three); Supplementary Exhibit #2 (parts one and two); Supplementary Exhibit #3.

(2) The Motion to strike said petition filed by the People of the State of Illinois.

(3) The Order of the Court in dismissing the said petition.

(4) The Praecipe For Record and proof of service.

Please take notice that the Plaintiff In Error elects, under Rule 36 (2), of the Illinois Supreme Court to transmit the record to that Court and will, under the provision of the Illinois Revised Statutes, 1949, Ch. 53, Par. 81, present to you full and complete copies of the aforesaid papers for certification, and will therefore ask for the return of same.

Talbot Jennings, Plaintiff In Error, Pro se.

[fol. 313] Proof of service of praecipe omitted in printing.

[fol. 314] Clerk's Certificate to foregoing paper omitted in printing.

[fol. 315] IN THE CRIMINAL COURT OF COOK COUNTY

[Title omitted]

CERTIFICATE OF CORRECTNESS

Be it remembered, that heretofore, to-wit, on the First day of November of the October Term, A. D. 1950, being one day of said Court, before the Honorable Alan E. Asheraft, Jr., sitting as one of the Judges of the said Court, this cause came on for hearing upon the amended petition for redress of alleged infractions of constitutional rights, occurring during the course of trial in People of the State of Illinois vs. Arthur Smith, Jr., et al., General number 48-1247, brought in forma pauperis, under chapter 38, paragraphs 826-832, Illinois Revised Statutes, 1949, Post Conviction Number 61, and that upon said hearing the Motion To Strike the above said amended petition and supporting documents made by the People of the State of Illinois was sustained and an Order was entered by the Court Dismissing the aforesaid amended petition.

Forasmuch as the foregoing matter, as certified by the Clerk of the Criminal Court of Cook County, do not properly appear of record herein, the petitioner-defendant tenders this Certificate of Correctness to the presiding Judge of said Criminal Court of Cook County, and prays that the same be signed and sealed by the Judge of this Court, pursuant to the statute in such case made and provided.

[fol. 316] It is therefore hereby Certified by the undersigned, Judge of the Criminal Court of Cook County, that the foregoing is a true and correct transcript of the records on file offered at the hearing of the said cause; the ruling of the Court with respect to said amended petition; and a correct stenographic report of certain portions of the proceedings taken at the Trial of said case (People of the State of Illinois vs. Arthur Smith, Jr., et al., General Number 48-1247) and submitted as Exhibits in support of said amended petition and by reference made a part thereof.

All of which petitioner-defendant desires to have reviewed by writ of error.

Dated this 22nd day of January, A. D. 1951.

Alan E. Asheraft, Jr., Judge of the Criminal Court of Cook County, Illinois.

[fol. 317] IN SUPREME COURT OF ILLINOIS

[Caption omitted]

Post Conviction Hearing Act, Criminal Court Cook County

No. 1122

PEOPLE STATE OF ILLINOIS, Defendant in Error

vs.

TALBOT JENNINGS, Plaintiff in Error

ORDER DISMISSING PETITION FOR WRIT OF ERROR—March 23, 1951

And now, on this day, the Court having duly considered the motion for leave to file a writ of error under the Post Conviction Hearing Act as a poor person and for leave to file ten typewritten copies of abstract and brief, and being now fully advised of and concerning the premises; doth allow the motion to sue as a poor person. It is further considered by the Court that after having examined and reviewed the petition and record in the post conviction hearing the same is found to disclose no violation or denial of any substantial constitutional rights of the petitioner under the constitution of the United States or of the constitution of the State of Illinois, and the petition for writ of error on post conviction hearing is accordingly dismissed; also, petitioner granted leave to withdraw petition and record, if requested.

[fol. 318] Clerk's Certificate to foregoing record omitted in printing.

[fol. 319] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1950

No. 452, Misc.

ORDER—June 4, 1951

On Petition for writ of Certiorari to the Supreme Court of the State of Illinois.

On consideration of the motion for leave to proceed herein *in forma pauperis* and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed *in forma pauperis* be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby granted. The case is transferred to the appellate docket as No. 782, now No. 95, October Term, 1951. The case is placed on the summary docket.

It is further ordered that the duly certified copy of the transcript of the proceedings below shall be treated as though filed in response to such writ.

June 4, 1951.